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A  
VOICE FROM THE PRISON,  
BEING  
ARTICLES ADDRESSED TO THE EDITOR  
OF THE  
NEW-BEDFORD MERCURY:  
AND  
A LETTER TO G. B. WESTON, Esq.  
AND OTHER DIRECTORS  
OF THE  
DUXBURY BANK.  
TO WHICH ARE ADDED  
LEAVES FROM A JOURNAL.

*Benjamin*  
BY B. RODMAN.

O! fear not in a world like this,  
And thou shalt know ere long,  
Know how sublime a thing it is,  
To suffer and be strong.

H. W. LONGFELLOW.

NEW-BEDFORD:  
PRINTED BY BENJAMIN LINDSEY.  
1840.

Soc 3790.14

1848 May 5  
Letter of Mr. F. J. Rodman  
to Mr. B. J. Rodman

### TO THE PUBLIC.

It is my lot to be committed to Jail, for debt. I am offered a release from this extremity, by laying myself under obligations to my friends, which I may not soon be able to repay — though if I should appeal to their sympathies, they would gladly advance me three fold the sum required. I shall employ the leisure my position allows me, in preparing a memorial to the Legislature, which, I hope, will have some influence in expunging from the Statute Book, the law which allows the incarceration of a man for no other crime than being poor.

To those to whom I am indebted, I say—it is for your sake that I am here. It would not be right to allow those whose patience I have so long tested, (and which has been to me a source of sincere gratitude,) to be deprived of what I hope to pay them in better times, by yielding to oppressive terms which would only change my obligations from creditors to valued friends.

The time has come, when the anomaly which this case presents, should be expunged from the Statute Book of Massachusetts; and I here promise to devote myself to the destruction of that law, which allows any man, at his mere option, to deprive his fellow of the privileges of liberty with which the Almighty has endowed him, and which all our Constitutions declare shall only be abridged by crime.

BENJ. RODMAN.

New-Bedford Jail, June 16, 1840.

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## TO THE READER.

THE following pages have been written during my incarceration, under the law of Imprisonment for Debt.

The articles have no visible connexion — yet, when they were begun, I fancied I should continue them for an indefinite period — and examine the law in question; — I therefore numbered them. Very soon I was satisfied, there was neither reason nor justice — nor the shadow of Constitutionality in a law, which gives to one citizen undefined and unlimited power over another. So strong was my conviction, that this *semblance of law*, would pass away as a scroll, the moment the light of truth shone upon it, and its abominable features were demonstrated to the Legislature, that my Task seemed to be over. I then quietly pursued the various objects which afford instruction or amusement, in a prison life. I knew that here were to be found ample means of information on many interesting subjects, and I was sufficiently contented with my situation to make the most of them.

I looked into the defects of our prison discipline — (and there are some serious ones) — the bearing of the Temperance question on the prosperity of our town, and the oppression exercised upon the poor — not by the rich, as is hypocritically thundered into the ears of the people — but through the influence of mistaken laws, and the administration of them by weak and corrupt instruments.

I saw, also, that the inefficient system of police, which we received from our Pilgrim Fathers, was entirely incompetent to govern a town like ours; and

owing to its want of energy and want of power, many great and growing evils were fastening themselves upon every branch of our trade and commerce—particularly upon the enterprising pursuit which characterizes our people, the Whale Fishery. These evils are at length overshadowing every thing around us, and threaten with a perpetual blight, the fairest flowers that bloom on our rocky soil—the happy homes of the laborer and the seaman. And I was seeking out means by which a better state of things might be promoted. Some hints on these subjects will be found scattered through my pages—also some illustrations of these evils, as drawn from personal inspection, and only exhibited in a prison.

Such pursuits, however, were interrupted by an incident that had the appearance of a gratuitous and malignant insult, and as cowardly and unprovoked as it was malignant. I then took my pen with a determination to vindicate my rights;—not my own rights only, but those of thousands who have no advocate. How well I have done it, others must judge.

Could these stone walls, and iron grates speak out, they would unfold a tale of misery which is but faintly portrayed in any of my pages. But the story they would tell you would be different from mine—for mine is brightness, compared to that of the friendless stranger.

Mothers and Sisters!—here is the tomb of the living, where your sons and brothers are too often buried.—Some of you have found them here, after long and wearisome journies. I have *seen* your sorrow—would that I could soothe it!

*New-Bedford Jail, August 1, 1840.*

# A VOICE FROM THE PRISON.

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## NUMBER I.

MR. LINDSEY: Though *you* will not be very likely to think a prison must necessarily be a wretched abode, after the animated discussion you participated in here, the other evening — yet as the first inquiry of many is, "How do you get on?" I suppose there must be some doubt as to the fact, that this is the most delightful place in the world!! Still I find, here, much is to be learned — and when men are *learning* they are generally contented. — When I was a boy, I remember I used to write on the blank page of every new lesson-book, a latin verse which I now forget, but the meaning of it was that "nothing is foreign to me, that appertains to human life — and man;" and I should die more ignorant, had I not come here.

I found in prison a gentleman in very similar circumstances to my own — who had travelled post, near two thousand miles, to be in New-Bedford in season for the last Court of Common Pleas, to surrender himself and prevent his bail from injury. His hair is only surpassed in whiteness by the wall around us — and his experience and information acquired from reading and foreign travel are a perpetual antidote to *ennui*. Another companion, is a good specimen of that class of men to which New-Bedford owes so much and for which she has done so little. The poor fellow, after a voyage of forty-six months, had a balance due him of less than nine dollars — a debt for a few weeks' board was contracted, which a sister, who had come from Portland to meet him, was willing to pay; but before her arrangements were completed, he was thrown into jail. If I were destined to compass the globe, I should be glad to have this man for a companion. This morning, when he received his breakfast, which was so ample (for Col. Baylies is not disposed to stint any one under his care) that he could not eat half

of it, he expressed his regret that "he could not be allowed to give this good bread to some poor person." *Some poor person!* Only think of the heart that in this place could *feel* such a wish, and you will agree with me that the sin of imprisonment for debt must lie heavily *somewhere* in New-Bedford. Still I know that very few in the whole town know anything of its extent. You see by the annual reports to the Legislature or to the Executive, that the expenses of your County are excessively heavy—you there see also that there is more imprisonment for debt in this town than perhaps in the whole State beside, except the city of Boston with its population approaching a hundred thousand. But there the thing rests. "They are only sailors," is the too frequent remark.

But one part of the system is hardly ever heard of. Your County Jail—this very building—is converted into a great tavern, where hundreds of travellers—sons of the yeomen of our State and other States, who, tired of home, leave their happy firesides to see the world, and tempted by glowing tales of the sea, would fain visit New-Bedford, as a starting point for their voyages—are obliged to make a long and mournful rest. Ignorant of the modes of deception practised upon the young, and easily induced to join the merry throng that mistake noise for happiness, and often led into fatal habits by the facilities of indulgence—(for my friend Tarpaulin tells me there are now five places in town to get liquor at, where there was but one when he sailed on his last voyage)—they find, before they are ready to embark, that they are in debt and encompassed by the mysterious meshes of the law. Poor fellows! their lot is hard indeed—no friend to sympathise with them, much less to advise. Sickness of heart would lead them straight home to the fireside they had deserted—and the memory of a mother's parting blessing distracts the brain even of the *departing* prodigal—but the subdued and incoherent expression of a wish, connected with that sweetest of all sounds—"home"—is the only signal which our laws require for the landlord to use the shackles which power has forged, and thrust him into an apartment in this public edifice. Here, under such circumstances, he is emphatically a slave—his creditor is his master—and in reality he differs little for a season from the pitied black man of the South. Shut up and deprived of the benefits of his own labour, even if he wished to work—his debt is weekly increased, till worn out by confinement, he yields, a willing, humble instrument, in the hands of his creditor. Without voice—without choice—he signs his name as directed, to any ship, on any voyage, and in any station his master

may direct—and after having emptied the cup of Pandora, he sees not even hope, at the bottom. He then, as it were, writes his last will and testament, in the form of an order for the whole fruits of his services. The prodigality which it is the interest of his creditor to promote, sometimes perpetuates his slavery, year after year, and voyage after voyage,—till at length home is only mentioned in the desponding sentence, “I would go home if I had anything to carry with me.” This picture is true to life. I am not the only witness to it—but would that there were *more* among the enterprising Merchants of the place, for the evil would then be *only seen* to be remedied.

*Thus* this house is made a tavern for the traveller—a mere stopping place (though not the voluntary one) of many a pilgrim in his journey of life; and an institution which is known to the laws as a terror to the wicked, is made the instrument of oppression and tyranny to the innocent and unwary.

Legislators, is this an evidence of the wisdom of your laws?

Mothers, did you ever dream that such are the snares set for the feet of your sons?

Yet ye wise Legislators this is the legitimate fruit of your laws for imprisonment for debt—and mothers, this is the cup your sons must drink of whilst those laws endure.

## NUMBER II.

There are joys in the prison-house that those who are in the midst of life's bustle scarcely know—and *they* need them not. The excitements of pleasure and active duties prevent the necessity of their seeking sources of interest or consolation, in the expressed opinions of others. Men may, it is true, hear the sound of humanity's voice, and utter a passing blessing on the philanthropist who, in high, or humble walks, speaks out the truths, our nature feels;—but they are heeded only as they afford an argument to the philosopher to establish some theory of progressive improvement, or to confirm the prophecy of every enlightened mind, that the developements of the human soul cannot cease, until justice and truth reign paramount on earth. But *here* that voice finds an echo that vibrates through the nerves—that swells the heart with exultation—and returns, calling on all who acknowledge the attributes of humanity to join, with heart and hand, in the appeal to man, to fulfil his destiny.

Probably there is not a passage in the English language of

more power, and that meets a quicker response in the bosom of the Incarcerate, than that portion of Mr. Webster's speech on the Bankrupt Act, before the United States' Senate, which relates to imprisonment for debt. And that it may be read separately and studied by itself as the opinion of one who stands upon the loftiest pinnacle of the loftiest tower of American Legislation, I will thank you to add, in the following extract, the thunder of the Massachusetts Senator to the voice of your friend.

"There are probably one or two hundred thousand debtors, honest, sober, and industrious, who drag out lives, useless to themselves useless to their families, and useless to their country, for no reason, but that they cannot be legally discharged from debts, in which misfortunes have involved them, and which there is no possibility of their ever paying. I repeat again, these cases have now been accumulating for a whole generation.

"It is true, they are not imprisoned; but there may be, and is, restraint and bondage outside the walls of a prison as well as in. Their power of earning is in truth taken away, their faculty of useful employment is paralyzed, and hope itself becomes extinguished. Creditors generally are not inhumane or unkind, but there will be found some, who hold on, and the more a debtor struggles to free himself, the more they feel encouraged to hold on. — Their mode of reasoning is, that the more honest a debtor may be, the more industrious, the more disposed to struggle and bear up against his misfortunes, the greater the chance is, that in the end, especially if the humanity of others shall have led them to release him, their own debts may be finally recovered.

\* \* \* \* \*

"Many of these insolvent persons are young men, with young families. Like other men they have capacities both for action and enjoyment. Are we to stifle all these, forever? Are we to suffer all these persons, many of them every way meritorious and respectable, to be pressed to the earth forever with a load of hopeless debt?"

\* \* \* \* \*

"The insolvent persons have not the power of locomotion. They cannot travel from State to State. They are prisoners. To my certain knowledge there are many who cannot even come

here, to the seat of the Government, to present their petitions to Congress, so great is their fear that some Creditor will dog their heels, and arrest them in some intervening State, or in this District, in the hope that friends will appear to save them, by payment of the debts, from imprisonment. These are truths, not creditable to the country, but they are truths. I am sorry for their existence. Sir, there is one crime, quite too common, which the laws of man do not punish, but which cannot escape the justice of God; and that is, the arrest and confinement of a debtor by his creditor, with no motive upon earth but the hope that some friend, or some relative, perhaps as poor as himself, his mother, it may be, or his daughters, will give up all their own little pittance, and make beggars of themselves, to save him from the horrors of a loathsome jail. HUMAN RETRIBUTION MAY NOT REACH THE GUILT; HUMAN FEELING MAY NOT PENETRATE THE FLINTY HEART THAT PERPETRATES IT; BUT AN HOUR IS SURELY COMING, WITH MORE THAN HUMAN RETRIBUTION ON ITS WINGS, WHEN THAT FLINT SHALL BE MELTED, EITHER BY THE POWER OF PENITENCE AND GRACE, OR IN THE FIRES OF REMORSE."

### NUMBER III.

Strange as it may appear, some of the most delightful associations are formed where, at first thought, necessity would be the only bond of union—and agreement would be the result of mutual concessions, rather than of that perfect harmony which imparts to the fireside its peace, and to all the various scenes of life their highest happiness. But sympathy, in its common acceptation, is not the only tie which binds together those whom the vicissitudes of fortune make companions, within these walls.

After a course of reflection, occasioned by the accession to our little community of another victim to the fell destroyer, which is spreading desolation through the borders of our beautiful village, — recollections more congenial to the day, were called up, in the conversation between myself and the friend to whom you have been introduced. Though a traveller in various climes and on various

continents, his home was originally in New England, and, what will explain at once to many of your readers, the cause of the harmony between us, to which I have alluded,—he was an early pupil of a venerable man whose name is indissolubly associated with our history—Elisha Thornton. By him the mind of my companion was formed—and not only was it initiated in the beauties of the science which traces the course of the Pleiades in the heavens, and teaches the human eye to scrutinize the barrier of light that separates the visible from the infinite and invisible,—called by us the Milky-way—but was also taught that divine philosophy of which the master was so enamoured, that in him was presented a constellation of those high principles, which form the devout astronomer and the enlightened man. We dwelt on the reminiscences of youth, and could almost call back the strains of piety with which he enchained the tumultuous passions of man and made him forget for a season that he possessed other elements than those which the preacher lived in, and which he cherished by a perpetual recurrence to the poet's aspiration —

“Teach me to feel another's woe,  
 “To hide the faults I see;  
 “That mercy I to others show,  
 “That mercy show to me!”

There are some of your readers who will recollect the Sabbath morning after the war with Great Britain was over — when he poured forth his prayer to Heaven, “that the mighty ocean, the “great highway which all nations traversed, whose waters had “been stained by the commingled blood of brethren by brethren “shed, might once more cast off its crimson colouring, and “subside into perfect calmness, shining forth an emblem of the “promised peace!” So fervid was the supplication.—and so pure the spirit that offered it! *the congregation bowed, with but one heart and one mind.*

Thus you see, though separated from the friends with whom we are accustomed to *hear*, we are still not without a preacher.

But the days of that remarkable man have passed away, and with them have sunk, below the horizon, the contemporaneous stars which coursed the heavens and brightly marked the first quarter of the nineteenth century. A few still linger—sending forth rays not less lovely—though the atmosphere through which they reach us is less transparent. Their work nearly done, and



looking forward with joy, though sorrowful for those they are about to leave, they exclaim —

"Thrice happy they! that enter now the court  
"Heaven opens in their bosoms. But, how rare,  
"Ah me! that magnanimity, how rare!  
"What hero like the man who stands himself;  
"Who dares to meet his naked heart alone;  
"Who bears, intrepid, the full charge it brings,  
"Resolved to silence future murmurs there?  
"The coward flies; and flying, is undone.  
"(Art thou a coward? No.) The coward flies;  
"Thinks, but thinks slightly; asks but fears to know;  
"Asks, "What is truth?" with PILATE and retires;  
"Dissolves the Court and mingles with the throng:  
"Asylum sad from reason, hope and heaven!

Thus, soon will have passed away the last representatives of a sect, whose philosophy and whose principles have done more for the advancement of moral improvement and moral power, within the last two hundred years, than all other sects and all other powers together. And now that their mantle has fallen — that divisions and animosities and strife have "broken the golden bowl" and the contents are scattered on the earth, that bowl can never again be united. But whatever there was pure — whatever there was lovely in its contents, will still have its influence, and only that can be destroyed, which, as the imperfect work of imperfect men, is necessarily destructible. That which originates in the self-existent principle, will endure forever.

I know there are many who sincerely regret the breaking of "the bowl" — but that regret is the result of short sighted views; for though it was of *gold*, still it was the work of an Artificer. It is true, the fragments are again in the hands of the workmen — but it will be of no avail — and the same success will attend their efforts, as did those of the cotemporaries of Noah, who ascended the mountains and climbed the house-tops, to escape the raging waters. But this clinging to relics is only the perversion of those high affections which are the loveliest attributes of man, and the disposition cannot and ought not to be displaced, until the mind can find and enjoy higher objects of attraction. Whether the climbing shall last a longer or a shorter time, is of no consequence. It is the perfect "bowl" only, as it was fashioned by the hands of Fox and his followers that possesses any interest with the world — and the history of the sect, from the days of its founder to those of the venerable man whose name will form the strongest

point of attraction in these Sabbath Day musings -- will be looked upon in ages to come as the land-mark by which the progress of true principle will be measured.

#### NUMBER IV.

First, one word for myself. If any friend of mine has any doubts as to the course I have taken, let him come here and I will promise to satisfy him that I could not have taken any other than the one I have chosen, consistently with the honour and truth which he has ever associated with my name. For those who are *not* my friends I have no concern — but to the world I will show in my own case, the most barbarous and oppressive acts of persecution that have ever marked the operation of this most abominable law of imprisonment for debt. I have no confessions to make. But to the Legislature shall be revealed the truth — and if my life is spared, that enlightened and generally humane body shall hear a tale that will make every ear within it tingle. I will state my case by memorial or some other way — but my voice *shall* be heard. There shall be no plea of ambiguity put in hereafter, to save any Senator from Bristol from the imputation of falsehood, neither shall there be any necessity for newspaper articles to *explain* a speech. Candidates for the Senate from this County *at least* — whether for or against the present laws, *must define their position in advance*.

But the collateral branches and the minute and unseen ramifications of the law are also full of corruption. Falsehood, fraud and perjury are its most abundant harvest. How are most of the inmates of this jail, who come for debt, brought here? I will tell you. By an oath that the debtor owes his creditor over ten dollars, and he believes he has an intention to leave the state. And many commitments are by men who combine in their own persons, the character of landlord, outfitter, and grog-seller. A poor man, generally a sailor, is taken in as a boarder. Rum is the staple commodity of the house, and it is a fact beyond controversy, that the poor fellow is so plied with the poisonous liquor, that when dinner-time arrives he has lost the power of eating. Thus his board costs the landlord but little. He is then allowed to have money, a pair of shoes, shirt, or some other little articles, that are dear at almost any price; he is watched and dogged by his creditor, who now becomes his absolute master, till little by little he has made a debt of over

ten dollars, which is very soon accumulated. After this, the means of liquidation are to be found, and also, the means of finishing the business by a good speculation. Now he is shipped for a voyage by some unsuspecting merchant, who "has not time to look at these things," with a promise of an advance of one hundred dollars, on the sailing of the ship. Then dollar after dollar is paid and charged in the account—and if the merchant will not pay any more than the *hundred*, it is just as well for the landlord—for the sailor is then supplied with no more articles than can be bought with the balance that remains, after deducting the amount due for board and "sundries." Thus his chest is supplied with a poor stock of poor articles, which must be made good before the voyage is half over, out of the slop-chest; and if the owners see that their captains do not fleece poor Jack "beyond the land," (and I believe there are but few captains who would do it,) this is the *best part* of his outfit.

Here I would remark that I believe the apathy with which our merchants look on these evils, is the result of a belief that they *cannot* do any thing to alleviate them: and I well know from *experience* and observation that there is a combination of causes which renders it very difficult to apply the proper remedy—but it is possible! The class of landlords to which I have alluded—who represent the various characters in one, of which I have spoken—have probably increased three-fold, since it has been my lot to come in contact with them, and one would almost think they had formed a conspiracy to excite the sailor to believe that every owner is his enemy, and that it is the intention of all of them to cheat him out of his earnings. I well remember instances, when I had offered to supply clothes of the best quality to those I employed, and kept samples in my counting-room to show them what they might have—after they had satisfied themselves that it would be for their interest to buy of me, they have soon returned dressed in clothing bought of others. I inquired the cause, and satisfied myself it was, that they had been filled with prejudice against my exertions in their behalf. I would then take out clothes, article after article, from my stock, corresponding to those they had on, comparing the prices which I offered to sell for, and found they had paid five dollars for articles which I charged at four, and my goods, they confessed were *better* than theirs. Thus the 25 per cent. which is charged for insurance and interest was lost—and the cost, at the *end* of the voyage, of what they bought of me was less (when the quality of the clothing was considered) than it was at the *beginning* when they bought of the landlord. But

it would be slander on our merchants to suppose that they either participate in the fraud or wink at the means. As a body of men you may look over the world, and you will not find another, of their profession, or of any other, more liberal in their payments — or more prompt in answering appeals to their benevolence. Their enterprise is as honorable as it is extended — and our town itself is but the emblem of the order, energy, and success which have attended their efforts. But they have one thing more to do — and that is to apply the remedy to the evils that surround them — which as I said is *possible*, if not *easy* of performance. **THE SEAMEN MUST HAVE A HOME** — they must be provided with such an abode, and it must be under such regulations that when they pass the threshold, they may know that they rest under the expansive *ÆGIS* of our merchants' honor — which like the stars and stripes of the American flag, would be a sure protection from every aggression. Then there would be established a mutual sympathy between the seaman and his employer — and the seducers of the former would retire like the Crocodiles of Egypt to their slimy element — and their fountains of pollution would be dried up for want of recipients of the poison.

But to return.—Before the ship is ready, (and delay often happens in a ship's sailing,) the landlord becomes fearful of losing his money—he knows that the sailor cannot show any value received for the hundred dollars—and it becomes expedient to prevent any more expenditure, lest the truth should leak out, and the ship owner, finding that the sailor owes the above sum and has but few clothes, turn him adrift as a good-for-nothing prodigal. To keep the landlord out of this dilemma, the victim is to be shut up — and now for the *modus operandi*.—The landlord goes before a justice of the Peace and swears that he has reason to believe a debtor owing him over ten dollars, intends to leave the State!!—when he has no other reason to believe this, than what the power of natural instinct affords; he knows within himself, that were *he* so abused—trampled upon—enslaved and debased by a creditor, he himself would run away!! There is the foundation of his oath. And as the law contemplates no such fictitious argument, the oath amounts as nearly to perjury as possible, and keep the landlord out of the STATE'S PRISON! Any Justice of the Peace knowing this system, or supposing it to exist, who does not inform himself of the truth of the case, ought to be struck from the rolls of the Commonwealth. And where the high responsibilities and duties attached to this office (simple and humble as a "justice" is considered) are prostituted to purposes of

such oppression and fraud—let the axe fall—no matter on whose head, and deprive the officer of his abused privileges. The *common good* and even-handed justice demand it.

I have not done with this subject for I intend to illustrate some parts of it by examples from real life, to which these walls and grates could bear witness, had *they* a voice. But I am warned that some of the duties of an Assessor are not yet performed, which I intended to finish here.

## NUMBER V.

It has often occurred to me since I have been an inmate of this prison, that were it known to my young friends who compose "The Young Men's Benevolent Society," that there was such a field for active benevolence and philanthropy as this institution affords, they would not be slow in thrusting in the sickle to gather the grain, already ripe for the harvest. To feed the hungry and clothe the naked is a high and necessary duty. But it is a higher to minister to the moral wants of our fellow men.

Hundreds are committed here for violation of the laws, to which they are prompted by nothing but the influence of that distilled poison, which sinks to the same depths, the high and the low, the rich and the poor. They groan under the oppression which that hard task-master, a depraved appetite, imposes upon them. They long to be delivered from the chains which they have themselves rivetted, but there is none to aid them—and in the absence of some friendly hand to lift them out of their lower self,

—"they mingle with the throng ;

"Asylum sad! from reason hope and heaven!"

If they were supplied with books of instruction, from which they might drink of the wells of knowledge and of faith, they would, many of them, soon learn that they had within themselves a principle and a power, which, at their own bidding, would come to their rescue and elevation. It is true there are tracts in abundance—and to some this very abundance is a source of weariness. They may be the products of minds pure, and hearts benevolent—but though they be thick as the leaves of the forest, they come here as the *dry leaves* which the wind bloweth where it listeth—they have not the freshness of life and the beautiful tints of nature; and one word of affection whispered in the ear of the afflicted is worth a thousand thundered to the populace.

Man is an individual and not a mass—he, therefore, requires individual ministration, individual recognition.

Have we no Howards—no Mrs. Frys—who can give *themselves* to the cause of suffering humanity? Enough there are who prefer their own accustomed pursuits, even to the wedding feast of soul to which they are here invited—they would gladly furnish abundantly, the means which are required to supply the wants of those who possess nothing, save the consciousness that we are all the children of one Father. In the absence of those who are the invited guests, others are pressed into the service—but they come not (all of them) clad in wedding garments—and though the manners of the day do not drive them away, yet they come and they go as the door on its hinges.

My young friends, will you accept the invitation and clothe yourselves for the work? The lessons you may here learn may be the most useful of your lives. Are you proud? Your hearts would be humbled. Are you ambitious? Your desires would be bounded—your wants would be lessened—and you would learn to prize the light which would be a guide to your paths. Nor would you want a fellow labourer. In our friend Col. Baylies, the master of this asylum, you would find a faithful co-worker—his generous heart would afford you easy access to the abode of the unfortunate—perhaps the home of the oppressed.—Long have we seen him pursuing his quiet path amongst us—but we have not numbered the comforts with which he has encircled the cell of the desolate! Here we learn not only to respect the faithful officer, but to honor the man.

My Task is over—for in the words of Capt. Anthony when, upon the broad expanse of the ocean, he reposed on the deck of the burning ship Poland—"I have had a pleasant dream—we shall be saved." Massachusetts shall be as a city of refuge—a home for the oppressed. And you my unfortunate fellow citizens wherever scattered—whom the laws of our mother Commonwealth have driven from the tombs of your fathers, and the fire-sides of your kindred, shall return to the embrace of your families and friends.

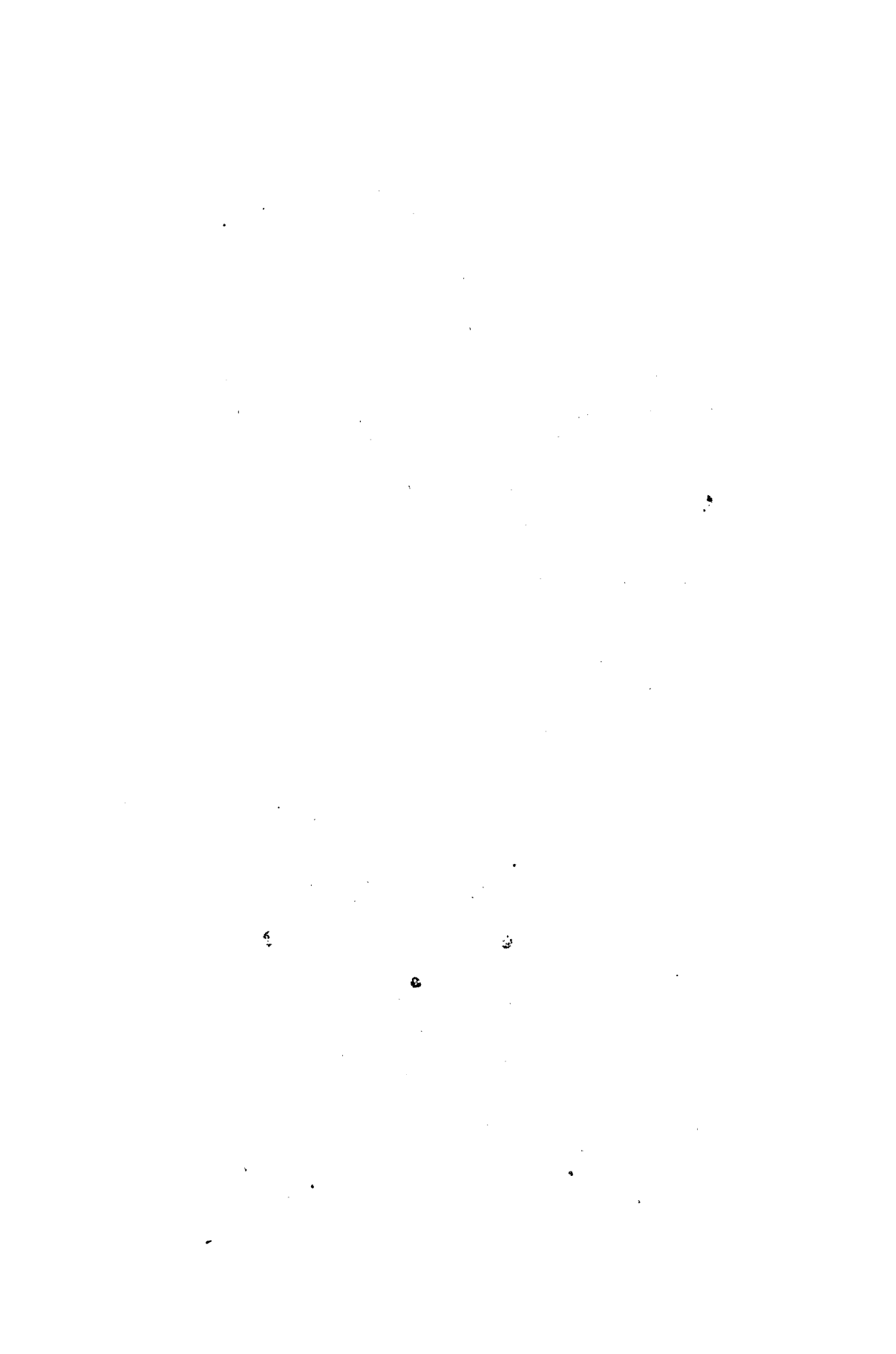
I dreamed that the Dove—the lovely emblem of Peace—had been sent out from the grated window of our Prison, and had returned again and again, bearing the olive branch of Hope; but at length she departed, giving to the poor debtor a promise "that the IRON GATE should be opened and closed no more on him forever." She flew away to seek a "green spot" to rest in. I believe THE DREAM—and Massachusetts shall be that spot!

Henceforth, I patiently await the action of the law, sustained by conscious rectitude and confidence in the merciful Providence of that hand which "wounds but to heal."

The work that remains to be done, will speedily be accomplished when the occasion offers—and the Statute Book will bear record that Massachusetts has numbered herself among her sister States who have already announced to the world, that their sons shall no longer be accounted guilty because they are poor. And as a JUBILEE of this happy consummation, my unfortunate fellow citizens, let us fix the *4th of March, 1841*.

Do you look to the rising sun of General Harrison as the dawn of better days? You do well. Do you look on Martin Van Buren as the man of your choice? I have nought to say here against it. Party politics cannot sever men who are in chains. We have one cause—one hope—and in the providence of God all will be accomplished.

And now, whilst numbered with THE LAST OF THE INCARCERATE, with the heart of a Freeman I bid you a kind farewell.





# LETTER

TO G. B. WESTON, ESQ. AND OTHER DIRECTORS  
OF THE "DUXBURY BANK."

*New-Bedford, July 4th, 1840.*

GENTLEMEN:

In the midst of the rejoicings of this happy day I received through the Post Office the following vote of your board.

(COPY.)

"At a Meeting held July 1, 1840, by the Directors of the  
"Duxbury Bank, to take into consideration the case of Benjamin Rodman, it was

"*Voted*, To accept of nothing less than the entire amount of  
"his debt and cost—and that Mr. Salmond and Mr. Bassett, the  
"Attorney of said Bank, being instructed on this subject, the  
"parties interested are referred to them.

"Yours Respectfully,

"S P. SKILTON, Cashier."

I confess such a message, unaccompanied as it was by a single word of comment, or explanation, did for a moment arouse the "strong man" within me—and I asked—to what am I indebted for this new missile? Is it not sufficient that they have "pressed the iron to the soul" in the shape of locks and bars and stone walls? Do they wish to mock my calamity? Do they think they can add to my (supposed) sufferings, by letting loose the

bloodhounds of persecution, and hunting me to the death? — and I asked again, to what am I indebted for this message? Surely, I said, I have requested of them no favors. I wrote to their President on the Sabbath morning previous to my commitment, that I believed I had decided aright, and that I could willingly resign myself to the humble bed of straw, the poor man's lot, since he and his colleagues had shown no forbearance; nor on the hundred occasions that he and myself had been associated together on Legislative Committees, and at the public table where we had sat side by side, in perfect harmony — had he thought fit even *to mention to me* my debt to their Bank, (of the existence of which I was almost ignorant.) If he had done this, I said, I thought I should have been able to satisfy him there could be no necessity for pursuing me to this extent — and concluded by stating — since he and his colleagues had taken this course, I had made up my mind to abide the result! — After all this, I asked, need the seclusion of my prison be invaded, and on this hallowed day, devoted to recollections of the arduous struggle, in which our fathers either bled or suffered for the cause of LIBERTY, and the freedom of their children, must I be made to feel that our liberty is but half accomplished — and that “by the inhumanity of man to man” he may still be made to feel the chain, without the aid of the British Crown. Surely I said, I have commissioned no man to ask any favor for me. — I have asked no alleviation of my lot. — I told the sheriff in performing his last office, to conduct me to the apartment where he would shut up any man who had not a friend in the world: and HE DID SO!

And when the friend, for whom I now suffer

bonds—(and for whom I willingly bear them, knowing, were the case reversed, he would willingly bear them for me) had in the honesty of his heart proposed the subject of a compromise of the debt, to a third person in my presence, I instantly arose from my chair and stated that, "*that was a subject never to be spoken of within these grates.*" Then why had I been thus insulted!! Thus I reasoned—and my imagination wandered afar to find a cause for the strange intrusion—when a voice came over me, saying,

"Guard well thy thoughts, for thoughts are heard in heaven."

I soon felt my accustomed tranquillity, and in less than an hour the mystery was explained. A friend informed me that the worthy man above alluded to, had hoped by the appropriation of his hard earnings, for he is a mechanic, to effect my release, and he had written to the Duxbury Bank to enquire on what terms it could be done, and that he had received for answer a copy of a "Vote!" corresponding no doubt to that which I have recorded above—and he asked me, "Can you bear the issue?" "I CAN," was the answer.\*

Now, Gentlemen, I can say to you, you know me not. Six years of anxiety and trouble, have not been spent in listless idleness. I sought to be active in doing something—however humble the sphere I found myself in, I was glad to work; and I read, I looked over forgotten histories;—and though much in public and before men, I have still been much alone. The impressive language of a

\*On reviewing this vote, I *do see* one civil word in it—probably no part of the record.—"Yours respectfully," must have been added by the Cashier. I thank *you*, Mr. Skilton, for that.

friend, applied by him to the "student"—I apply to MAN, universally; he says,

"He must embrace solitude as a bride. He must have his glees and his glooms alone. His own estimate must be measure enough, his own praise reward enough for him. And why must the man be solitary and silent? That he may become acquainted with his thoughts. If he pines in a lonely place, his heart is in the market; he does not see, he does not think. But go, cherish your soul; expel companions, set your habits to a life of solitude, then will the faculties rise fair and full within, like forest trees and field flowers. You will have results, which, when you meet your fellow men, you can communicate, and they will gladly receive." \*

The disposition to study and to work placed me within reach of the *accident* that gave me a seat in the Senate of Massachusetts; and that again made me a member of the Committee on the "Revised Statutes," where I worked with the ability I had; and in that volume may be found the form of law, which gives you the power to incarcerate a brother.

You may ask, was it adopted by my consent? I answer no, *I voted* against it. I probably did little more than give a silent vote. On that question I was crippled. It was like legislating myself out of Jail: and, tho' the question was one of public good, I felt how weak must be the argument which appeared to have its origin in personal fears: and *I scorned to urge it*. I went still further: I lamented the danger which threatened to make shipwreck of a whole year's labor, in consequence of the energetic and manly opposition of Lieutenant Governor (then acting Governor) Armstrong, to this relic of barbarism "Imprisonment for debt." His negation

\* R. W. Emerson's Address.

of the whole volume was feared, and though it contained much that was imperfect, yet I believed it was the best code that human ability could digest and *pass* at that time, and I rejoiced when he waived his opposition and merely left his memorial against the objectionable portion on the Records of the Legislature.

On an incidental question I was not so silent: I was fully satisfied that it was the duty of the Legislature so to divide the chapters of the laws, that His Honor might have an opportunity to exercise his constitutional Veto, on such parts of them as he felt bound to disapprove. In every stage of that debate I sustained this view of the subject, but I was in a minority — the result I have stated, and it is known to the world.

Here I would remark that every argument used as an apology for the law in question, so far as I am acquainted with its operation, has been proved groundless in practice. The law has become one of the most oppressive instruments that freemen ever put into the hands of petty tyrants, to work out their malignity — or gratify their revenge. — I could give you instances, existing at this moment within the sound of my voice, to prove all that I assert. I here make no allusion to anything that affects myself: on that point others will hereafter have an opportunity to judge. The County buildings have been used for no better objects, than the slave-prisons of the south. Men, it is true have never been shut up here and sold for life for jail-fees: — but upon the fictitious oath of an oppressor, before men miscalled “Justices,” that a debtor owed him over ten dollars, and he believed that he was about to leave the limits of the state — that debtor has been imprisoned here, till worn out by

suffering he has resigned himself to the tender mercies of his creditor, and sold his services for four years, for a paltry sum to be paid in grog ; the means of guilty indulgence and a few articles of high-priced, half made clothing ; — to be returned a beggar at the end of a long voyage, upon his native shores ! Such was never the intent of those who advocated the law. I heard their arguments, and though I believed they were raised on a weak foundation, I knew they were urged and believed by *honorable men*.\*

Nor was the perversion of the law anticipated, to the extent it has been carried ; or the *humanity* of our Legislature would have provided more enlarged apartments for the victims of the law. The very room I now occupy, and which is scarcely ample for its three occupants, has been the melancholy abode of fifteen unfortunate debtors : most of them of the fictitious class I have described, and who were imprisoned through **LEGAL PERJURY**. Now and then, it is true, a noble hearted fellow has been here entombed and has paced this floor for sixty days, vowing he would never submit to the infamy of sealing his voluntary bondage, and such was the man — a poor native of a South Sea Island, who was unconditionally released, just in time to make room for the individual whom a soul-less institution has consigned to the magnanimous keeping of "*Mr. Salmond and Mr. Bassett*." Gentlemen, can you read an omen ?

But you also have taken ground that is as unten-

\* I have been told since I came here, that a majority of the Lawyers were in favor of retaining the law for imprisonment. I do not believe it. Those to whom I have alluded are no longer in favor of it, and I can only imagine such to be its advocates, as, having a stomach, and no brief—require a victim.

able as that on which the fictitious cases, alluded to before, have been built. And if the course you have pursued can be sustained by the technicalities of the law — which I doubt — a wise Legislature will strip you of the power you have abused and consign to oblivion the statute which places in the hands of “Mercenary Swiss,” the liberty of the sons of Massachusetts; and makes a mock of the agonies of her daughters, and the tears of their children

But I rest not my rights even on that ground. There is a document often appealed to --- but little understood --- in which it is written, --- “All experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed.” And hence it is that SIXTY-FOUR YEARS have passed away since the Declaration of American Independence was first published, and American citizens have patiently submitted to a practice, that has been continued as a relic of the common law of England, and in direct violation of the “truth” held by the sacred charter under which we became a nation, as “self evident,” that “all men are created free and equal, that they are endued by their Creator with certain unalienable rights; that among these are life, LIBERTY and the pursuit of happiness; that to secure these rights, Governments are instituted among men --- deriving their just powers from the consent of the governed,” &c. Here is the first declaration on which the PEOPLE of the United Colonies based their independence of the Crown of Great Britain; and after proceeding to enumerate the causes, the same instrument declares: “We must therefore acquiesce in the necessity which denounces our separation,

and hold them, (our British brethren) as we hold the rest of mankind—enemies in war, in peace friends.”

Then the separation of the people of the American Union from the crown and the laws of Great Britain, was entire and absolute. We were then a free and a NEW nation, and according to the custom of all other new nations, the PEOPLE proceeded to form the basis of a new government; and though they did not first publish a Bill of Rights, as is the modern practice—yet the error was soon corrected, by amendments to the Constitution, which, a learned Statesman\* informs us, were intended to supply the deficiency. And among these the eye of the freeman immediately rests on the following :

ART. 4. “The right of the people to be secure in their persons, houses, papers and effects—against unreasonable searches and seizures, shall not be violated—and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.”

ART. 5. “No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury.” “nor be deprived of life—*liberty* or property, without due process of law.”

ART. 6. “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury,” and “to be informed of the nature and cause of the accusation,” &c.

ART. 7. “Excessive bail shall not be required, nor *cruel* and unusual punishments be inflicted.”

ART. 9. “The enumeration in the Constitution of certain rights, shall not be construed to *deny or disparage others* retained by the people.”

Here then we see that by the Declaration of In-

\*John Quincy Adams.



dependence, the right of *liberty* is "unalienable"—that is, no one can destroy it without cause—and for cause, only by means specially pointed out; and by article 4th, above quoted, it is provided, that it shall not be without a "warrant." Now, a warrant for the seizing of a person, must be for a crime or a suspected crime, it must then be substantiated by an oath or an affirmation.

By article 5th, "No person shall be held to answer for an infamous crime, unless on a presentment," &c.; "nor be deprived of liberty without due process of law." The process of law can only be commenced by an indictment by a grand jury.

By article 8th, "Cruel and unusual punishments shall not be inflicted." All punishment must be founded on conviction of crime.

By article 9th, The enumeration of certain rights shall not disparage others retained by the people. The people have never yielded the right to *punish*, except by laws conformable to the Constitution, and the Constitution declares that no cruel or unusual punishments shall be inflicted. And yet you gentlemen Directors of the Duxbury Bank, a soulless as well as a heartless Corporation, have taken upon yourselves the power, without a warrant—without trial—without conviction—without sentence—of imprisoning for life a free-born citizen of the United States, and declared by your Vote that no authority but by consent of "Mr. Salmond and Mr. Bassett," shall open the prison doors and loose the chains of your prisoner!!

Monstrous absurdity—abominable tyranny—worthy of the Spanish Inquisition and *disgraceful* to a French Bastile!

It may be asked *how* you are exercising this power? I answer, through an unconstitutional

law of Massachusetts. As that law now stands, the doors of this prison are closed forever upon me, or until the grave opens them to receive your victim ! You have placed me within four stone walls, with a grated window and the entrance to it is barred by impassable bolts. My board is paid in advance, at the rate fixed by law, of one dollar and twenty-five cents per week, and by the amount paid, I conclude you do not intend to trouble your agent with very frequent errands to the jail.\* Thus I have no access to any without these gates, through any attention from you, and the only agent here, you have appointed to hear propositions or make treaties, is one with whom I have no sympathies in common, and for whom I never had any respect.

The law, I mean the record within the statute book, for I know it is *no law*, fixes the impossibility of release, unless all your demands are satisfied. I can here earn nothing. I have no access to my books and papers: they would be too voluminous to find convenient space to be spread out in, if they were brought to this room. I can see no one to make any collections from, even when they owe me. And thus, unless I become a *beggar* or a *borrower* (and you know not that I should be successful, if I assumed either character,) I must be your prisoner during your pleasure; and for aught you know, for life. Thus, I repeat, I am a prisoner for life — on a scarcely better footing, than

\*I have heard that the amount deposited is one hundred dollars. This would be an unnecessary *waste of interest*, and is not quite in character, I should suppose, with the "Directors of the Duxbury Bank." However, long before that sum is used up at 7s. 6d. per week, the Stockholders of the Duxbury Bank may have an opportunity to "calculate the value" of their charter.

a condemned murderer, whom the mercy of Government has saved from the halter. A prisoner for life — without warrant — without proof of guilt — without even charge of crime — without trial by a jury of my peers — without conviction — without sentence — and without limit by any known or unknown law. Such an anomaly was never before heard of. The exercise of less power cost Charles I. his head, and Louis XVI. both his head and his kingdom.

And now, gentlemen Directors of the Duxbury Bank, let me ask who are you, so clothed with more than kingly and tyrannical power? I ask not your names; for I know not and care not with how many letters they are spelled. Only the name at the head of this letter,\* to my knowledge I ever

\* I have been asked by a friend if it was true that "I refused to speak to a Director of the Duxbury Bank?" Such he said was the report. It *may be* true.

On Tuesday morning, June 16, when I was taken by the Dep. Sheriff, I called to bid my old friend, Capt. Crocker, of the Bedford Commercial Insurance office, goodbye. In the office sat a stranger. I had never seen him, and inquired who he was; but could not ascertain. He was pretending to read a newspaper: *perhaps* he was reading. I was, probably a little nervous, and the man made a disagreeable impression. I proceeded to jail. That same man appeared in the office here — spoke to no one that I could discover — yet the same nervous feeling attended me, — he stepped out. I asked the under jailor who he was — he knew not. Well, I said "that man seems to dog my steps; but it must be my imagination."

I was quietly looking over the form of the mittimus — being now left, by all that accompanied me here — when the Sheriff came in again and said "Salmond is here, (perhaps he said a Director of the Duxbury Bank,) if you wish to speak to him." Now, Salmond was the man who was the correspondent of Bassett — and the Sheriff had shown me Salmond's letter to Bassett, containing the order to commit me — upon Bassett's "suggestion that I could not take the oath." My answer was "I wish not to speak

saw. But who is the Duxbury Bank? A mere personal fiction—an association called a corporation—composed perhaps of some hundreds of individuals—chartered, with certain privileges for the “public good”!! And when by the change of events to which real men and fictitious ones too, are always liable—you find that you cannot redeem *your* promises: in short are like myself and cannot fulfil your engagements at a *certain day* in the only constitutional currency of the nation, why forsooth you creep humbly to the footstool of power—and of rightful power too—the Representatives of the people—and ask a reprieve. You state that you are benefactors of the people—it is true you say you are ‘a little too much extended,’ but your debtors are the dear people, and to press them to pay you in the Constitutional Currency, would be the ruin of thousands. The farmer would be forced, to sell his lands for almost nothing—the merchants would all break; for they trade on our loaned capital. We are, in short, you say, the head of a row of bricks, and if you continue the power to exact their due, as it were, to those who have trusted to our worthless promises, it would knock down a whole row of living men. “Therefore we pray the honorable, the General Court to give us the power to laugh at our creditors—and keep them at bay until we can curtail our issues—collect our debts and prove that we are really honest men—very judicious directors of a creature of your own creation—most excellent Representatives of a man-of-straw

to him—it is now too late—I shall speak to higher powers.”  
Yes, I shall speak to you, gentlemen of the Legislature!

Now, I think I should know *that man* again, if I should see him on Boston Common, by the light of the fire works. And if that was Salmond *I did refuse to speak to him.*

king,—and we again implore you to save us from ourselves and our own improvident acts, by repealing all penalties (over six per cent. interst, which we can well afford to pay) for keeping our money in our own hands till we please to pay our debts in a 'Constitutional manner." And perhaps you would proceed, 'your petitioners are very industrious and enterprising men, and having easy access to, and plenty of credit at our own board we have taken to our own use 'on good and sufficient security' a large portion of the capital entrusted to the keeping of this man-of-straw; and if we should now be obliged to restore it to the widows and orphans who have placed their pittance in his keeping, we should all prove Bankrupt in three weeks — whereby the pittance of the widow and the orphan would be blown to the — winds, and they be made beggars for life."

Such, I doubt not, could be the interpretation of documents on the files of the General Court and perhaps with your names attached to them. And the prayer was granted—and properly granted, for the Institutions of the State when conducted by honorable men and not the self-made tyrants of the people, are the very breath of life by which the people of our beloved Commonwealth are made prosperous and happy. Yet there are among them those, who, without warrant; without indictment; without trial by jury; without sentence, decree the incarceration for life, of those who ask less favour than they themselves *cannot exist without*.\* And a mere fiction of straw can trample on the sacred rights of free and honorable men; place them on a footing with felons—without even the

\*Gentlemen, do you ever read the 18th chapter of St. Matthew?

poor privilege of asking and receiving the Executive clemency; not even a reprieve to enjoy the sunshine, which to felons is not denied. Tell it not on the "Bridge of sighs." Tell it not in the Dungeons of Olmutz. Tell it not where the scattered fragments of the Bastile may echo it: lest the tyrants of the old world laugh to scorn the pretended liberty and the boasted freedom, guaranteed by paper constitutions, and deride the folly of those who place their faith in Republics!!

But this day is the dawn of a new era. Gentlemen, Directors of the Duxbury Bank, can you read the signs of the times? If you can, then open a little volume called "The Jubilee of the Constitution." There you will find contained in a few pages, more food for the mind of an American freeman—more hope for the preservation of American liberty—more evidence of the darkness in which the freeman's rights have been enshrouded for the sixty-four years that we have been a nation, than in any equal number that were ever written in the English tongue. There you will read one line that ought to be written in letters of fire on every Capitol; and engraved on every hearth-stone throughout our wide Republic. It is this :

"FELLOW CITIZENS, THE ARK OF YOUR COVENANT IS THE DECLARATION OF INDEPENDENCE."

John Quincy Adams will hereafter be hailed the SECOND father of his country, as the immortal Washington is, THE FIRST. He has ploughed up the fallow land and opened to Heaven's pure light the hidden treasures, which have long lain buried in the bosom of that Magna Charta, over whose smooth surface we have careered with joy, blessing the day that gave it existence. Henceforth we shall view it as the field of possession, to buy which

we shall be willing to resign all the terraced gardens and picturesque landscapes, which our skill has planned or our fancy cherished. In the discourse alluded to, I have, Gentlemen, learned my rights—and traced the origin of your usurped power—and unless my fellow-citizens make it the study of their mornings, and their evenings, the day is not far distant when they and their children—will learn, too late, I fear—that though the image they worship has a head of *pure gold*, the iron foot of tyranny will press them to the dust.

And now Gentlemen Directors, you may wish to know how I occupy the time, during which I am furnished with a tenement at your expense. But the question would be hard to answer so as to give *you* a conception of the various employments which may make a prisoner's life tranquil and happy. An honest man, however, with the consciousness of having wronged no one intentionally, finds no cell dark or gloomy. And then the friends who come, hour by hour and pass a cheerful season, add variety to the scene: and among them are numbered the statesman, the venerable and the honorable—the young and the beautiful—the civilian and the divine—the rich and the poor—the mechanic and the farmer—the merchant and the scholar—the physician and the *stranger*, all coming fresh from their various pursuits, and enriching the hour with offerings on which memory long may dwell.

There are still other joys that the prisoner has about him. There are hearts that beat in sympathy with those who are far away, but whose paths have led them still farther off from virtue—driven by the world which they have offended, to their

lonely cell of sorrow, perhaps of repentance — a friendly voice may cheer them, and the friendly tear may give them new hope. And when there is, at a “father’s house enough and to spare” — a *word of invitation may be sent* on the wings of the wind, to that father, to extend the parental hand to the returning one, and renew again the blessing that has ceased to be poured out on the offending child.

But, perhaps, gentlemen Directors, you imagine you can attach ignominy to a man by shutting him up within the same walls with those who are accounted outcasts and drunkards. But as long as the laws are so silent as to permit the mingled cup of poison to be sold with impunity — it does not follow that the worst class of society is to be found here.

But from other causes, this is not a place of ignominy. It was built in obedience to a wise benevolence — and why is it not as honorable to be, where moral defects may be cured, by meditation and prayer, as in a hospital, where the maimed and the blind are healed by medical aid? Who ever attached ignominy to Silvio Pellico? Who thought the dungeons of Olmutz could disgrace a La Fayette?

On the contrary — already we\* feel that this is *our place of honor!* — and when our friends retire, and the shades of evening encircle our cell, we remain three stout hearts together. Here is my venerable friend, whom long years of disappointment have taught resignation, peace and wisdom — he is my counsellor, — and my other friend whom the “single plank” has borne safely over the mountain wave,

\* Including my two companions, alluded to in “A VOICE NO. 1.”



where no eye save that of the Almighty could mark his track — in a most cheerful and industrious occupation of his time, has almost become as necessary to me as a right hand. All are as one heart and one mind — able and willing to suffer and to labor in the cause of oppressed humanity — glorying in the consciousness that we are numbered among “The last of the incarcerated,” for cause of poverty, and feeling that our rescue is certain. Nothing is wanting but to blow the fire already kindled, “*and wrap the whole system in consuming flame.*”

When all is accomplished, and our Jubilee is come — you, gentlemen Directors and the Duxbury Bank, shall be remembered, but as are “the host of Pharaoh — their chariots and their horsemen whom the Lord overthrew in the midst of the sea.”

Gentlemen I am,

Your enduring prisoner,

BENJ. RODMAN.

## NOTE.

After the foregoing letter had passed from my hands, a friend brought to my prison the Report of the Committee appointed by the Legislature last winter, "to consider the expediency of providing by law for the effectual abolishment of imprisonment for Debt in all cases not involving fraud."

I find in it the opinions of many high authorities, confirming my own views—and I should have been glad to adopt some of them by quotation had I known of their existence in season. One fact there stated, I will however, here record. The Reports on the condition of the Jails for 1836, 1837 and 1838, state that there were *four hundred and thirty-eight commitments to prison for debt*, in New-Bedford alone.

Some very erroneous notions that are still entertained by very intelligent men are entirely refuted in the document by giving the opinion of Chief Justice Marshal, who says "Imprisonment for debt constitutes no part of the contract." The same doctrine is alluded to and carried out in the address of Governor Everett to the Legislature, delivered in 1837, and his views are worthy of consideration by every statesman. He concludes his remarks, on this subject, as follows :

"For these reasons I cannot doubt, that it is expedient to perfect the work of HUMANITY AND JUSTICE already begun, BY AN ENTIRE ABOLITION OF IMPRISONMENT FOR DEBT. It is scarcely necessary to add, that if further legislation is required to prevent fraudulent concealment and transfers of property, it should receive our prompt attention. The rights of the creditor are as sacred as those of the debtor; and nothing is more to be desired by the honest debtor, than that every facility should exist in detecting the frauds by which the law is sought to be evaded."

In the LAST of these sentiments I as heartily concur as in the FIRST.

ERRATUM.—The words "as it were" on the 30th page, should be transferred from the 23d line to the 21st and inserted after the words "you say."

## LEAVES FROM A JOURNAL,

### ILLUSTRATING LIFE IN A PRISON.

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July 17. Captain \*\*\*\*\* who has lately returned from sea, in the Barque \*\*\*\*\* has just left me. He states that he took with him on his voyage four men, whom he supplied with clothes on board his ship, and when he returned, the highest bill of the four was seventy dollars, and the lowest forty. The voyage was of twenty-seven months. The others, fifteen or sixteen, had each an advance of seventy-five dollars for outfits paid by the owners in six months after sailing, and these all drew, on the voyage, clothes to the amount of twenty-five to fifty dollars, having *very little* of any value in their chests at the beginning of the voyage. Probably each of the sixteen men would have received seventy or seventy-five dollars more on his return than he actually did receive, had there been no law for imprisonment for debt. They would then have had no credit but what their good character gave them. *If they had* clothing of the value of seventy-five dollars, it was only another way to obtain money to pay the expenses of riot and indulgence, by selling them at one fourth their cost. The system of supplying sailors on the voyage with clothes from the slop-chest, and paying no bills except for board before sailing, I am rejoiced to say is gaining ground. It will prove the best guarantee of successful voyages. For such is the discouragement to the sailor, when he finds himself at sea, destitute of clothes, and involved in debts which he cannot expect to pay, even after a successful voyage, that he leaves the ship as soon as he gets an opportunity. The captain must then pick up men where he can, and as he can, at whatever expense to the owners. Probably double the value of all the clothing, used by the seamen, is yearly sacrificed by owners in bad voyages and extra wages, for want of a better method of supplying their men. One thing however is necessary, that is, to convince the sailor that he will have his clothes on board

the ship at moderate prices ; and owners can do this, if they please, notwithstanding the falsehood of those who are interested in keeping the sailor in ignorance.

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*July 21.* There is a sailor, twenty-five years of age, a native of Connecticut, in this jail for debt, on the suit of his landlord. Every indication of waste of both body and mind is manifested. For a time he was boisterous and profane to a very offensive degree. Now he seldom speaks unless spoken to. If he sleeps, it is probably at intervals in the day time. At no hour of the night, nor of the early dawn, can he be found absent from his accustomed walk. His almost noiseless footstep can generally be perceived. He retires occasionally, and at the moment I am writing, his voice whilst reading his Bible (as his nearer neighbors inform me) may be heard. He eats but little, and that little at unusual periods.

I addressed a note to the Judge of Probate to ascertain if there was no way for such a prisoner to be released. The judge called on me and stated he knew of none !

Thus a creditor in Massachusetts can destroy the liberty of a fellow-citizen, his right to pursue happiness, and (as I verily believe this case will prove) the enjoyment *of life* itself. Any individual, if another owe him ten dollars, may exercise with impunity a power in perpetuity, that if employed for a *single hour* by a governor of the Commonwealth, would make the very hills quake with denunciations of the tyranny ; or if corruptly authorized by a judge of any court, would cost him his fair name, and visit upon him the penalties of impeachment.

Such are the "equal rights" of our citizens. Comment is needless.

*July 25.* The physician of the prison went his rounds to-day, and pronounced the young man, alluded to in this note, decidedly insane.

*July 31.* For a day or two, the same prisoner has been more quiet. But yesterday, when some strangers were looking at him, he told me he was "very weak." Last night he pursued his walk, stopping now and then at the grate, muttering incoherent and deep curses upon the man who placed him here. This morning he is very violent. It is a curious fact, that this poor man's creditor a short time since had a home here upon a charge of *threatening to kill his wife !!*

July 22. A few days ago there was brought to jail a married woman named \*\*\*\*, a descendant of the Aborigines, about 23 years old, and mother of two children, the youngest about six months old. She came in drunk, and intoxication was the charge against her. Nothing in her case occurred for two or three days, which would excite more than ordinary attention, though occasionally she was exceedingly troubled. Last evening, under the influence of *delirium tremens*, she was greatly agitated, sometimes convulsed with fear — now reading her Bible aloud — then breaking out in the most violent ejaculations, calling upon her God to save her, and not to let her go down to hell alive. She clung to her Bible, and as the remnant of her candle grew shorter and shorter, the apprehension of total darkness overwhelmed her with such terror, that one of the under keepers went to her room to pacify her. He gave her a whole candle to continue her light. At this period, though I had heard all that passed in her apartment, it being separated from my own only by a plank partition, I descended one flight of steps and ascended another which brought me to her door, where I found the attendant endeavoring to relieve her from the dreadful idea, that infernal beings were dancing about her, ascending and descending through the ceiling, to parts of which she pointed, directing her finger to one place and another with amazing quickness, describing at every moment the beings of her imagination in colors that nothing but the furies could impart. Thus she lay on her bed of straw, clasping her Bible to her breast, and ever and anon leaning towards her candle and reading distinctly a few passages, then calling on God for mercy, to spare her for half an hour, then praying that she might return home to her family and friends, where she said her relatives were Christians, and a large church was near them. Then she changed her prayers to shrieks of agony, for the prince of darkness beckoned to her and called her away. Her screams of terror reached the most remote cell in the prison, till at length exhausted, there was a little hope that she might, between her reading and praying, fall asleep and catch a little repose. A short interval elapsed and her door was closed, but left unlocked at her earnest request.

But the interval was short — again her wailings were heard — again she called on God for mercy — again she seemed to drive from her the spirits that were menacing her eternal punishment. And all at once, shriek after shriek followed in quick succession, as if the very walls of the prison would give way to the convulsive throes of

agony of a soul in flames. The inmates of the rooms and cells were aroused in a twinkling, as if to witness a funereal pyre! The wretched victim was soon surrounded by those whose limits extended to her apartment. She had left her bed, and was crouching in a corner near the door, clinging fast to the object nearest to her, with her eyes directed to the corner of the room where the furies were rioting. Convulsed, trembling, big drops of sweat covering her face and forehead, her eyes glaring, and flashing as they changed direction, she called on those near to come nearer, and in tones of unutterable anguish deprecated the horrid sentence that was seemingly delayed being executed upon her, but for a few moments. That sentence was to burn in hell; and, as if she already felt the burning heat, as she braced herself against the wall where she sat, she writhed and lifted up her feet one after the other with the rapidity of thought, screeching again and again as quickly — take away, take away those red hot bars of iron!

These scenes continued by the hour, alternating from the furious to the sorrowful; till at length after a little medicine had been administered, the poor sufferer, becoming more quiet and confiding, followed the persons present to the common apartment of the jail, where she was surrounded by familiar objects, and by and by taking her Bible to the light, continued reading till the writer of this was lost in sleep.

Faint is this picture. The pen that records such a scene must be dipt in fire to give it the vivid coloring which memory only can retain.

But, my reader, sad as is this tale, the half is not told; but the rest must be shrouded from the public gaze. The previous haunts of this poor victim of intoxication, the sad recollections which added to the pangs of a wounded conscience, together with the pain occasioned by the absence of a nursing infant; all these, and *more yet*, would fill up a picture which would make the heart of a demon tremble, and that of a good man too, when he remembers that it is but the legitimate fruit of the neglected system of profligacy, that is preparing its punishments for this devoted town. Reform or desolation are the two only remaining alternatives.

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The next day the poor maniac raved, and moaned, and maddened by the recollection of what had passed, talked of home, and her hus-

band, and her little ones. The day was one of agony. Evening came, and tormented with apprehensions of evils greater than death, of death by accumulated violence, the terrors of solitude were more than her affrighted imagination could endure, and for hours she occupied again the common apartment, reading the Bible, and driving from her presence the phantoms which beset her. At length, she sought her humble couch in a corner, wrapping herself in her blanket, and covering her head, vainly hoping to dispel the spirits which destroyed her peace. She arose again, again wandered about the apartment, eyeing every fancied object of danger, till weakened by her exhausting agitation and useless toil, the phantoms diminished, and then in whispering accents she prayed that once more she might see her lovely babes. Her husband also claimed her love. Her parents, long buried, came back to memory, and home with all its lovely associations pressed upon her wandering thoughts. Again she knelt in feeble but agonizing aspirations to her Heavenly Father, that once more she might behold her dear little ones, and would fain uncliothe herself, that the scanty relics of her wardrobe might be borne in remembrance to those, in whom her whole soul was now centered. She arose and again she wandered, her home and her children her only remembrance. Dimmed in vision she groped her way to the heavy door near which she had stretched her unrested frame — she embraced it, printing kiss after kiss upon the lifeless iron — each she fondly believed resting upon the lips of her babes. She again reclined upon her bed of straw, placed her face in her hands, enfeebled, worn out, she sunk into deep repose — she lives — it is midnight.

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*July 23.* For the first time for many days, my favorite walk has been unoccupied. This is a gallery to empty cells, often appropriated to individuals sent here for temporary safe keeping. But seldom have they interrupted me, and often have they imparted new interest to my prison. The last sufferer there was the poor "maniac." This morning she came to my room a changed being. Reason has again dawned, but she is still bewildered. On the night of her agony, when destitute of everything, almost naked, for her clothes were lent, or pawned, or stolen, before she was brought here, I had given her a handkerchief to wipe away her tears; she now came to ask me if I *had not given it to her*, and to thank me for it.

She said the "straw woman claimed it." This "straw woman" has been one of her imaginary tormentors, and still troubles her when alone in her room. She thanked me also for restoring to her her clothes. I had sent an officer for them to the dens of infamy where they were scattered, and most of them were returned. Among them the favorite frock of spotted calico, which she had desired to be sent to her little children as a last token, when a thousand deaths seemed to threaten her.

To a man who has the soul of a man, and *nerves to bear them*, the scenes, which the last few days have presented, are ample compensation for many privations. They afford lessons in "human life" which beggar the schooling of the exchange or the parlor.

Would that the SIXTY RUM SELLERS in New Bedford had been tenants also of the room occupied by the poor sufferer. I retract the wish; for then the presence of beings who make a sport of the misery of human life, and make the souls of men the baubles they play with, would have been no fiction. I watched the heaving chest of the maniac by the hour, expecting every sigh would date her exit. Had the real destroyers been present, SHE MUST HAVE DIED.

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*Sunday, August 2.* Every day gives me a leaf for my journal. Many of these will never see the light; for were all the truths I here learn given to the public, the world would not believe my report. They would say he hath eaten with harlots, and thieves, and sailors; therefore who can believe him? It is true I see here those who are reputed to be such; and I also read from the book before me, "Verily I say unto you that the publicans and the harlots go into the kingdom of God before you;" implying that some men are worse than those; and if by publican is meant, (as is often included in the term,) a seller of rum to the weak and unwary—that mercy must be great that calls *them*! The *sayings* of Solomon's wisdom are past, and some of his proverbs are displaced. I have heard, I know not how many times since the 16th of June, from the lips of the sailor that "RUM was the root of all evil;" and it does seem as though it was the SCOURGE OF THE WORLD. Go where they will, the poor sailors are always tempted to ruin by its ensnaring power. And what I never could have imagined, some of the American consuls in the islands of the Pacific are supposed to be the owners of the "Poul-



PAAREES," where the sailors obtain grog at all times. These may be a little removed from their own dwellings, but it is pretty well understood that the liquor comes from the Consuls' cellars. A long train of evils, pains, penalties, and costs often follow the first visit to the Poulparee, and the sailor is fleeced, besotted, and at length returned to his ship half naked. In short, as far as I can learn, the Poulparee is similar to the bar-room of the vile dens near our own doors. Now for these to be protected by the American government, through their consuls, is an abomination that cannot be endured by the American people. And I would recommend to Martin Van Buren, or General Harrison, as the case may be, to look into the subject, and see that all officers of Government guilty of such corruption be removed. Government does enough to ruin the sailor, by supplying grog on board our men-of-war. For Heaven's sake, do not let our Consuls degrade themselves into rum-sellers! And what a beautiful comment it is upon the Temperance professions of some people, to have their shipping articles headed with "no grog," (and all now are so,) and after these ships have been among the islands to see a letter running after this manner; "Our island has been free from intemperance for a long time; but since the whale ship —,\* Captain —, was here a few days ago, there have been much disturbance and drunkenness among the natives — the schools are neglected, and Riot runs mad. Captain — landed two barrels of rum and sold it." "O that can't be helped," say some of our wise ones. But I say it can be helped, and must be helped. You ask, how? Every ship carries out extra stores for sale, to recruit with. Is rum a part of the stores, when all hands agree to abstain from it? In temperance ships — that is an *evasion*, and the owners ought to be ashamed of it. But if they are not, rum is now considered a very poor article of stores for a whale ship. Let the Secretary of the Treasury send a circular, saying that "Poison for the natives cannot be exported as extra sea-stores." I would go for such a *veto*. But if this should be thought too much of a sumptuary law for those who want the privilege of poisoning natives, and returning whalemens to their own shores drunkards, to spend three months walking, and sleeping, and eating, and playing fox and geese, or checkers, or some such wearisome pastime in this prison, then I have another expedient. Let the secretary order a report of every whale ship's rum stores made out and sworn to, then PUBLISH it. My word for it, the trade would soon cease. No man

\* I am thankful this was not a New Bedford ship.

can stand that and hold his head up. And lest the rum be taken on board at intermediate ports, let every consul report to Government how much is taken on board of every ship; then again, when and where it is landed.

But a great duty may be performed by the Executive, in preventing our own officers *abroad* from becoming participators in the conspiracy of rum sellers to destroy our seamen. Their efforts, united with those of owners at home, will do much to remove one of the greatest evils that attends a sea-faring life.

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*Sunday, Aug. 9.* As I opened my door this morning after breakfast, a beautiful sight was before me. There sat seven men on a bench, behind the iron gate, their apartment all swept, each with a Bible or some other book in his hand, attentively reading. Yesterday I received an accession to my prison library. Before, as I had offered my books, I had the answer, I have read that, and that, and that to the end of the catalogue; and when I told my companions in bonds I had more books, they came to the gate, and around me from without it, like so many sheep in a fresh country, where a measure of salt is provided for them, each asking for something to read. I distributed the books and appointed a youth of the company librarian. All noise was hushed — all that could read applied themselves diligently to gain instruction. And here another bright Sabbath has dawned upon us, and our prison is as quiet as the morning, and as peaceful as a Christian church is our little domain. The scene speaks for itself. It needs no pen to celebrate it. And yet a contrast was near, and how sad was that contrast.

I passed over to the vacant gallery, where I was about to pursue my morning walk; but *there* was a soul all desolate — a man in ruin. Stretched upon the granite floor, his bed and blankets in strange confusion, and he, just as he was deposited there the night before, still drunk, though able to tell his name, his occupation, and the names of the individuals who had furnished him the three glasses of gin, that had stretched him on the earth, a poor, prostrate, wretched man.\*

\* A few days more acquaintance with this individual, I confess, did raise him in my estimation. He manifested a feeling which I never knew to exist in those utterly lost. He did love his mother; and that love was reciprocal; for at a still later day, that mother, poor, old, and infirm, came to the jail and released him by paying his fine and costs.

And who are these? One has indeed found, in his *adopted country*, a place so free, that though he despoils his neighbor, and loosens riot, yet there are none to make him afraid!

Another was not long ago the valued and promising hired man of one of my friends, whom I have heard speak with interest and affection of this young man, yet lamenting the blight which threatened his destruction. If I am correctly informed, the thing feared has become fact. He too is his own customer.

And the third a man of comparative wealth. By law, and in spite of the law, he has steadily pursued his vile calling, always a "friend to temperance"—always an advocate of "moral suasion" to suppress the evil—still mixing the poison for his neighbor's lips—still robbing the children of the poor—still adding house to house and ship to ship—and still the friend of "moral suasion." But yet I hope to him the following lines are not applicable.

"The poisoned cup, so often mixed  
And sweetened to disguise its power,  
On him, alas! it now has fixed  
A canker—deepening every hour!"

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**August 10.** One of the drivers of the rum cart has come here to sleep away a few months,\* and to show a sign of the times. The carts, which supply rum from one depository, run from New Bedford to Wareham and Carver, from New Bedford to Freetown, from New Bedford to Steep-Brook and Fall River, from New Bedford to Dartmouth and Westport. These are the regular routes out of town. **Excursions** are made often to Dog-Corner, Perry's Neck, and a place out West.

What a beautiful link in the chain between the forty rum distilleries in Boston, and the yeomen and sons of yeomen in the old colony! Alas, the blindness of the people! and what moral justice is manifested in the awful dispensation of Providence towards the author and owner of this travelling curse! He is said to be fast approaching a total loss of sight, occasioned by the fumes of ardent spirits.

\* In default of paying his fine and costs for drunkenness.

**August 21.** In one of my early essays, I took the liberty to invite those who have hearts touched with benevolence, to turn their attention to the opportunities of doing good, which were to be met with in this prison. The call was promptly answered, and my library was enlarged by the accession of valuable and interesting books, papers, tracts, &c., and also donations of a substantial kind for some who were destitute.

Were I to make a display of the "prison flowers" which I have had sent to me, they would be acknowledged more beautiful than the *bouquet* even, which daily adorns the rough shelf of my little room. But I am restrained from such exposure. The letters I have received were in confiding friendship, and, while they were intended for my own eye only, bear to my own mind the evidence of sincerity. Among these are some from a class of individuals who receive too little sympathy, being cast upon the world friendless; and hopeless despondency urges them on still more rapidly in their course of sinfulness. I mean outcast and unhappy females. Yes, *unhappy*, for indeed they are unhappy, beyond the imagination of those, who only read their history in the misery they inflict on society. Some of them are sent here by the law, and some come to talk through the grate to former friends. Once I said to one of them, — Are you not tired of your mode of life? — Indeed I am. I will abandon it. I would rather die this moment, than believe I shall always live so. — She said she was married, and her husband had left her. A little child of three years old accompanied her. This woman was at liberty; her home had been invaded by the officers of the law, and her protectors were here awaiting trial. — You love that child, I said. — I do; I have carried her in my arms for weeks together when she was so sick, I do not see how she came to live. — She may be a blessing; your love for her may save *you*. — She gives me a great deal of trouble. I have to shut her up half the time to keep her out of the way of the swearing children around her. I have respectable friends, and they want me to go and live with them; but I can't go; I am ashamed to go. — But you *will* go to save that child. — Yes, I will go to save her; but for *her*, I should care little for myself. Then she added, — I would kill that child this minute, if I was hanged for it the next, rather than she should live as I do. — I looked at her, and asked her if she knew what she was saying? She returned the look calmly, with an expression of — How can you doubt? then with energy replied, — Yes, I speak the truth, and I could mount the gallows in peace to save that child! — She dated

her misery from the day she was married,— before that, I had a good home and good-friends, she concluded, and departed. — I have seen her no more.

But I took not my pen to tell this tale of sorrow. I sat down to transcribe one and one only of the memorials, I shall bear away with me, of my prison life. The writer will not think it a breach of confidence ; she will understand my motive too well to view it in any other than its true light. She was at large when the note was written. She had passed through her course of punishment in another building, where I had sent books to her often, and which she acknowledged with gratitude. I pass over her former life — *may that be as a scroll.*

(Copy.)

Mr. Rodman,—

Respected Sir, — With great pleasure and humble thanks to you and all your kind friends, I received the presents, and have no other way of showing my respect to you and others, who have been so very kind, than by writing a few lines, and that in a very feeble way, which I have no doubt you, however, will excuse.

Your kind note has given me new courage, and I feel that I have found friends, and hope *that*, and praying that I may not be so unkind as to abuse your kind friendship, and so conduct myself the remainder of my life, may encourage you and others to try to redeem all the unworthy, — others who are fast sinking in ruin. For had it not been for your kind admonition the first day I saw you in jail, I should never have thought of anything better than dissipation, for I had no thought of any one in this world ever looking upon me with an eye of pity ; and what is more astonishing to me, those so affluent in life.

I beg your prayers, that I may still do well. I feel happy, and am still determined to press forward in spite of all who may be opposed. Please to accept my most humble thanks and best wishes for your family and kind friends, and believe me your most humble, and obedient, and unworthy servant,

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Please to excuse this note, and believe it comes from a humble heart. I have read your tract,\* and found it beautiful.

\* From a little package of interesting papers and tracts, I had sent her one.

I can add nothing to this, except that the writer of the note is in the employment of an excellent family, where she is serviceable and respectable, and *respected*.

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There remain in this jail very few poor debtors. How it happens I cannot tell; but of those that come, some find help to bail them out, though poor as need be; and some intend to stay and pay their debts with their liberty. The story of almost all is instructive. One, still here, could give a lesson to legislators, and show them they arm the basest of men against the friendless. He owed something for house rent in the country. His landlord removed to town and opened a Rum House in spite of the law, for he has no license. As an apology for a tavern, he has a stable. The poor man offered to live with him, and leave half his wages in payment of his debt. It was agreed to;—but what shall be your wages?—I will work for \$15 a month.—I will not give it, you shall work for \$13.—I cannot afford it; I have a family.—If you will not work at my price, I will put you in jail for the old debt.—You may do it!—It was done. He has been here a month or more. His wife is out at service, and is an industrious, worthy woman. Being a farmer and laborer, it is hard for him to earn anything here. Still necessity is the mother of invention. He has now contrived a way by which he thinks he can earn a dollar a week, and pay the board of his child!

It is a mercy for this poor man to be here; for I can scarcely recollect a single rum-seller in town, but he bears the evidence in his face or elsewhere of being his own customer; verifying the proverb, "Curses like chickens come home to roost." Those whom they employ frequently follow their example; and the jail is a more enviable abode than an unlicensed rum-selling tavern.

Strange to say, some of the *owners* of these nuisances are men of wealth; I mean owners of the buildings. But their day also is at hand. "I have seen the foolish taking root; but suddenly I cursed his habitation,"—is the language of the Scriptures.

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I am in favor of a change in the mode of supporting our Police Court. There have been numerous complaints, that the fees of the judge amounted to more than a sufficient compensation for the duties

of that officer. I have seen the statements of the present incumbent, and thought there was no reason for the charge, when the average amount of annual income was considered. But I confess I took but little interest in the subject, and never examined the details of the law by which these things are regulated.

I have no information on which I ought to change this opinion, and have lately seen cases in which *the man* was not sunk in the judge. But the fact, that some of the sufferers imagine their punishment is connected with the income of the court, has a bad effect; and there is some parallel between the actions brought in this court, and that class which lawyers call "*Qui tam*" actions. The last were *entirely* abolished by the legislature that enacted the Revised Statutes. Therefore I would carry out the system, yet allow an ample salary, that may always command talents and integrity of a high order. The duties of this court must, however, soon be diminished. Probably ninety-nine hundredths of cases brought in it arise from drunkenness. When the tables are turned, and those who sell the rum are brought before the court, the cases will lessen. It would be a pretty change of occupation from retailing gin, to hammering stone in a penitentiary. Or let them take the place of those who are occupied, as I have described some to be here. Let them ponder in idleness on the iniquity they have practised, and *then* hammering stone will be a delightful pastime in comparison.

If our legislators pass not some law to reach the pressing evil, which costs this town alone (as is estimated by a recent committee of investigation) \$400,000 annually, they must be lost to the duties they are bound to perform. But let us hope the work will be done, let either party bear rule. And may the *owners* of buildings be made answerable in the last resort.

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**Aug. 31.** I have been invited to look into some errors which have crept into the custom of shipping, as well as settling with the seamen belonging to whale ships. Since I have been here, I have heard and seen enough to convince me, that there are great errors and great abuses. But they are such as only need to be pointed out, to be corrected. "*Sailors' Rights*" have been so long on every man's lips, that it is almost forgotten there are such things as *Sailors' Wrongs*; and so great pretension do many make to be the vindicators

of the seaman's rights, that the sailor himself forgets to take them into his own hands, until some severe flagellation reminds him, that he is not only possessed of flesh and blood, but also that his country has laws which protect them from, or avenge them for being cut to pieces.

In well disciplined ships, these evils do not often occur, so as to be obnoxious to the charge of *great* abuses, yet there are peculiarities in the whaling service, which, whilst they constitute its greatest merit, as an advantageous pursuit to the enterprising young man, at the same time open a door for great tyranny, and great oppression.

Every white man that treads the deck of a whaler, (and some colored men have done it,) whatever rank he may first assume, may say to himself, "I will command this ship, or one as good;" AND HE MAY. His own will, his own talents, and his own principles, together with good health are all that are to be considered either to make or mar his fortune. It is true, education to a certain extent is necessary, and this is often acquired later than it is ordinarily done in life; for when a man sees that he can be advanced, he generally applies himself to his books. But after all, there is often great deficiency in this point, and it is a source of evil. The hope and excitement of promotion will keep the mind active, during the early progress of advancement, but the great trial comes when the subject becomes commander. Up to chief mate many succeed well;—if they are tyrannical, the tyrant shows himself, and then their *commanders* are wrong to allow of severity. When, however, the captain first treads the deck of his ship, it is a proud moment. His object is attained, and the proof is to come of what he *has been*, as well as what he is to be. If he has been a man of principle, now he will show it, by conducting his voyage upon principle; and if he has been a *restrained* debauchee, he will make his ship a pandemonium. And if he is cruel and tyrannical, he will make his ship a babel, and not only a babel, but a battle-field. All these things have been; and yet men, who conduct their voyages without principle, without morality, without sobriety, still continue in command. Were the sins they commit, and the sins *they teach* and authorize during their absence, scored in a ledger, and every man under them should keep his little book, and record there the sins he felt justified in committing, (*from example*,) and which the great ledger might not contain, owners would then see at what cost they obtain their wealth. For amid all the evils I have named, the man of energy has obtained his object and filled his ship. Admit all this, and the question, what are the sailor's wrongs? hardly needs an answer.



Irritability, from want of high moral principle, and mortification, because inferiors have witnessed the degradation of those who, professing superiority, are even too low for their own justification, must make a very uncomfortable home to those who do business on the mighty deep.

But after all, the remedy is in the hands of the seamen themselves. Their rights are defined, and all may learn them who will. Still they are not learned, and a thousand abuses exist, and will exist, till a higher moral standard is attained in every department of the navigation of the United States. I know of no exception. REFORM is every where wanted. In the merchant service the shortness of passages renders the evils so trifling, that they are not thought worth the notice of those who can check them; and when there is tyrannical treatment, the sailor escapes rather than complain. But on a four years' voyage, there is no escape; and instead of obliging men to bear silently and patiently being brutified, or to run away with dishonor, some means should be found of informing sailors what rights they possess, and how they can maintain them. I see now no better way, than that a MANUAL should be compiled from the laws and customs which govern the voyages of American ships; then all who sail may read; *and this probably will be done.*

Yet as regards improvement in the customs which govern the business of New Bedford, this never can take place until some radical evils are removed. There must be a boarding-house, where the sailor may feel that he is a human being;—this he cannot do where *all* feeling is drowned in Rum. He must have for friends and protectors the owners of the ships, who will supply him with cheap and good clothing; and these things will and must be, the very hour that imprisonment for debt is abolished. After that, another generation will see better days, and a different aspect will pervade all the institutions which are threatened with premature decay.

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*Sunday, Sept. 6.* To-day I had a visit from some of the young men who have been inmates of this prison. They are now employed at their trades at excellent wages, and fully determined to leave off Rum. One of them told me he had stopped in at one of the shops, one evening since he left here, "to see what was going on." The principal, whose name I omit, had just stopped his play with several young sailors, saying, "I have won enough from you this evening; what you have left you will want to buy your bitters with in the morning."

Now to the merchants, I say, — Is it not too bad that there should be no extensive boarding-house under your own superintendence, where these young men might have a home, free from such temptations?

I have had a large amount promised for the **SAILOR'S HOME** since I came here, in addition to the **SIX THOUSAND DOLLARS** already subscribed for this object; and if others, who are not subscribers, still withhold their offerings from the *abundance* which they possess, I can complete a sufficient amount, I have no doubt, from the widow's mite and the poor man's earnings. All of the latter class, with whom I have conversed, lament the sad deficiency under which the seaman labors, in regard to a home. Many of them have had occasion to call on me in my prison, and many come without absolute necessity, because of "*auld lang syne*." These I find lack not sympathy with sailors, and are willing to do what they can to promote an object, on which the future prosperity of this town depends. They view it as I do, an act of absolute self-defence, and **THE THING MUST BE DONE**.

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*Sept. 15.* The beauties of the law of imprisonment for debt have been depicted to me this morning by a fellow prisoner. I had heard there were several new ones arrived, and took my pen to note their circumstances. The individual who last left my room is a seaman, who, from adversity, owing to the stagnation in his mechanical business, from the state of the times, went to sea. He had lost his money by endorsement. Ignorant of the characters of the people of this place, he went to board, on his return, with a man who keeps a grog shop. The prisoner is not an intemperate man, he says, and from his appearance and conversation, I should not suspect him to be one.

When this man came in, it was intimated that he must stay out "a siege;" for his creditor once kept a prisoner here six months, and he at last escaped in the following manner. He obtained ninepence; on that he began to trade. He bought candles, and such articles as were required by other prisoners, which he sold at a small profit, till he obtained enough to pay **THE EXPENSES OF A CITATION** to his creditor, and in due time was admitted to take the poor debtor's oath. Then he was released. I have described so many of these cases, and they are nearly all alike, that it seems as though testimony to the character of the oppressors of the poor was almost useless to be farther pursued. But this creditor I know. I called upon him as

one of the assessors, in the Spring, and then found him out. I said, "Well, Mr. ———, what stock in trade do you represent?" — "You see it all," was the answer. — "Is all you have in these decanters?" — "Yes, sir, unless there may be a little in one or two demijohns there," pointing to a corner. "And you keep a rum shop; do you not know that you are violating the laws?" — "Why, sir, I am a very feeble man, out of health" (A handy apology for laziness.) "I must do something, and I supposed I had as good right to sell rum as others."

Thus it is, and there is an opinion abroad that there is no law against tippling shops, and that opinion is practically carried out in this town, to an extent that only a residence in this jail can expose. And this result has only taken place since the repeal of the law that existed when our present governor was elected. Before that, the nuisance was considerably abated; and though there were some who defied all law, still it was done in the most secret manner. I remember to have stopped with a friend at a shop notorious for the sale of grog, near our old market-house, during the operation of that law. There was no bar, no bar-keeper, no person visible who officiated in the sale. The room was empty of all furniture. Nothing indicated the character of the place, except a few worn-out tipplers who seemed to be *at home*. But there were several faucets protruding through a partition, from which those who pleased drew the liquor they liked best. I saw one man step up and take his dram; (that man has since gone to his account, and left a large family in poverty.) I do not now remember distinctly, but I think there was a place of deposit for money, in payment. My companion stepped up and drew a little; he named the liquor and set down the glass. About that time a brazen-faced underling stepped into the room and said, "Well, Mr. Rodman, what do you think now of stopping the trade?" — "I think," I answered, "that the day has come I have long desired to see; that no man dare sell rum in New Bedford and show his face." But it is so no longer.

Yet mark the end of the man that kept *that shop*. He was sick unto death. Life was almost gone out. But the horrors of his conscience were beyond endurance. In his agony he sent for his family, his customers, his neighbors — all who had participated in his crimes, and all of his neighbors whom he supposed were pursuing the same traffic; and as the only restitution he could make to a public he had abused, he exhorted them to abandon the sale of rum, and after spending the remnant of his misspent days in these earnest and agonizing appeals, he died. Were his appeals listened to? But for a

moment. Soon all the ensigns of the rum shop were again hoisted, the same vulgar set of customers were seen hanging round the door. I was passing it one evening at dusk, and was stopped by the uproar and confusion of a brawl. Soon out came headlong a besotted victim, and his blood polluted the pavement. I went in, and never before were all my senses assailed by more disgusting objects. A widow in her weeds was the apparent owner of the place. I described the scene at the time in a daily paper, beginning the article with the language I heard spoken in the crowd. "A lady keeps that shop," and from my window *here*, I can look out on an apartment of the House of Correction, and see the miserable idiotic, wretched beings whom her cup has besotted, and who have found their rightful refuge.

I could describe many other places of the same character. The official stations I have held in the town — overseer of the poor, and assessor, for many years have drawn me into close connection with very many of the homes and the habits of the people, and my heart has a thousand times swelled with exultation at the sight and recollection of the happiness and blessings which have attended the honest industry and noble exertions of our people. "Peace is within their walls, and prosperity within their palaces;" and wherever these do not mark the habitation, the cause of all the wretchedness is defined by one word — RUM.

But a happier day is dawning; the dormant virtue of our citizens is at length aroused, and a voice has gone forth which never can be hushed but by a regeneration from vice. The elements to effect it are all here; there is no lack of energy; there is no want of power. The pillars have already begun to be shaken by the mighty arm. This jail has this day\* sent forth witnesses to the turpitude, the villainy, and almost every crime that pollutes the secret dens of infamy, with which our suburbs are surrounded. And the end is not yet. Months days and years will be numbered before all of them return to the scenes of their iniquity, and when they do return, their places will be desolate, for the march is onward.

The occupants of the debtors apartment are now few, and all are excluded from the world by rum-sellers, except myself,† and whether

\* The court of Common Pleas opened yesterday in Taunton.

† I believe there is one other exception, a young man from a distant state, who has there a father, mother, and sister, and his personal appearance and deportment are very much in his favor. He was put into jail the first of

*I am an exception or not, I am unable to answer. I have never been in Duxbury, but I shall go there.\**

September on a justice's writ, returnable the fourth Monday of the same month; that is, 28 days from the commitment. The account attached to the writ runs thus :

— to — Dr.

To merchandise, as per Leger, \$18.

Then comes the oath declaring the plaintiff expects to recover \$10 or upwards. The young man has written to his creditor for a bill of particulars, and day after day runs on, but none can be had. It is a singular fact, that scarcely a debtor here, put in by outfitters and rum sellers, can get a bill of the articles charged him. In the case of this young man, the justice's office, the creditor's place of trade, and the office of the lawyer, who administers the oath and fills the writ, are not five minutes walk apart, and the justice's court is in session almost every day; yet under these circumstances, there is a lawyer of the Bristol bar, who will lend his profession to aid in keeping a poor man here 28 days for trial. And the debtor cannot remember, he says, of any proper charge amounting to more than \$7. This is imprisonment for debt with a vengeance. I hope the next Legislature will print all the Jail Reports. Let the people see them!

\* Attached to this jail is the House of Correction, where there are about forty persons confined, and with about three exceptions, rum caused their punishment. They mostly appear like farmers and laborers. It was for the benefit of the "poor," that the sumptuary law (as the last law for restraining the sale of spirits was called) was repealed. It is to be hoped that some effectual law will now be passed by the Legislature without reference to party, and no doubt such will be the fact; for the measures taken for the repeal of the one alluded to, have recoiled most effectually upon both parties, and both are heartily sick and ashamed of the part they took in it.

Who are the temperance reformers now? I will tell you. A poor Irish woman called on me to say her husband was in jail for drinking. His fine and costs amounted to nearly eight dollars. The poor woman said her family was suffering; she had several children; one quite young. Her husband (unless his fine was paid) would be obliged to stay here for three months, at \$1,75 per week, and she with her family, probably, would become tenants of the alms-house for the winter. Thus the *State and County* would be taxed at least a hundred dollars. Now mark! The complainant against this poor Irishman, who had drank only one glass of spirits, bore the *same name* that I found as assessor, in my last, keeping a tipling shop; he has since failed; his fees, as witness, &c. probably amounted in this case to 70 or 80 cents; and this, no doubt, was the only inducement to his *temperance action*. The next day the poor man went out, by the help of his employer, for it appeared he had plenty of work.

But as regards our home here, it is, to most, **comparatively** happy. All those of intemperate habits acknowledge **they are** better off here than at the boarding-houses they left. They employ their time in such pursuits as they can. All who can read, do read; some exercise their ingenuity in such work as sailors can most all do, making mats, and other useful manufactures. Give a sailor a rope, and he can make something, and make it handsomely. And one little West-Indian, a colored boy, who was too pugnacious *without*, is very peaceable *within*, and is applying himself industriously to learn to read. The spelling-book and the Bible are seldom far off.

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*Sept. 16.* Three months have passed, since Gershom B. Weston and the directors of the Duxbury Bank, through their "attorney," Salmond and Bassett (Ezra) sent me to this prison. And why, I know not. It looks to me like one of the most malignant acts that man can inflict on man. *Men* may bear, and even make happy a home within walls and grates, yet there are others without the stimulus, which injury and oppression and wanton tyranny apply to the bosoms of those that have been taught to bow to no master and **YIELD TO NO FORCE**, who in silence endure *what would move a world*.

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*Sept. 20.* In the absence of all the ordinary advantages of good libraries and plenty of subjects to interest the minds of those, who are not accustomed to severe thought and application, many hours have hung very heavily on the hands of some of my fellow prisoners. Of late, however, the poor debtors' apartment has been furnished with a representative from the musical world, in a mechanic mentioned before. Since then, all the books with poetry in them have been ransacked to find an agreeable and useful employment for the twilight hour. Everything, that can be remembered by those who can sing, is sung; and when all else fails, the prison resources are called upon; and having found some beautiful stanzas in the "Dial," but better suited to a more picturesque world than to the one *we* live in, I took the liberty of transposing the author's words, and at the *expense* of the poetry, to adapt them more to the state of **MUTUAL DEPENDENCE**, which all feel when their domain is as circumscribed as ours. In the following new dress, they are adopted, and among others, sung every evening by the name of

### THE PRISON HYMN.

Thought to thought alone can reach,  
 Feeling to the deep responds;  
 Soul to soul its love can teach:  
 Only darkened man desponds.

Heart by heart alone is cheered,  
 Mind reflects the light of mind;  
 Only is the future feared,  
 When the past is waste behind.

Man is like the Etna fire,  
 Burning, raging oft, within;  
 When the embers all expire,  
 He 's a temple pure from sin.

As the stars in concert shine,  
 So do souls, as one agree;  
 Truth alone 's the power divine,  
 That binds them all, yet all are free.

What is social harmony,  
 But the sound of cheerful lays,  
 When one glorious company,  
 Unite in heavenly praise?

Only let the dove descend,  
 Softly whispering, "Hear my son,"  
 Hearts in friendship then may blend,  
 Nations, melting into one.

Then shall all delight to dwell,  
 Where flows the eternal fount;  
 Voices soft and clear shall swell,  
 In such numbers, none can count.

Life shall be no pilgrimage,  
 As since painful toil began;  
 But earth a lovely heritage,  
 Where God may walk with man.

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I need not say, that in the preceding pages the allusions to outfitters are generally made to those, who combine one or more *unlawful* callings with the regular occupation of a dealer in seamen's clothing. The trade in this kind of merchandise is necessarily immense, and is pursued of course by individuals as respectable as any in the community. I have no fear that any honorable dealer will apply any of my strictures to himself.

## CONCLUSION

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READER, I have detained you long. Little did I think that my leaves would run to their present number. But as the occurrences of the day fastened themselves on my mind, I could only throw them off again through the aid of my pen. And I have selected for publication those only, which I think have a bearing on the subjects that are closely connected with the happiness of our community. And though my life has been, as it were, in a cell, yet it has been neither inactive nor solitary. If I have written much, it is because I have thought much and seen much ; and what I have learned here seems to be a part of all life, and a portion of all the evils which blight the prosperity even of a republic. No place so small as to escape them, none so large as not to be overshadowed by them. One hundred days' residence in the prison has confirmed all the views, which I had at my entrance, on the subject of imprisonment for debt. It is the cause of more villainy, more bankruptcy, more poverty, more drunkenness, and more misery than any other institution in the commonwealth ; and simply because it is the rod of tyrants, and its fruits are oppression, corruption, fraud, and fear, which grow only in the soil that tyranny waters. The prison has been to me a link between the bright and the dark side of human life. Few have the courage to embrace it ;



all, or nearly all, fly from it. Could the educated, the refined, the elegant make free to enter, they would learn what makes the darkness within it. They would then see it is but the reflected or *absorbed* darkness from without. And from the window that places the iron between them and the world, they would see all the vices which are *represented* within. They would see the arts and the power by which the little oppress the *less*. They would learn how mighty is the arm of the law, and how unequal is the scale of justice. They would see how the public good is prostituted to individual gain, and how the public peace is bartered for *private* pay. And then they would *apply themselves* to the task of correcting the evils, that weigh like an incubus upon the bosom of society. Not because there is not a power of virtue in the system, but because technicality and form and ceremony have so clogged the vital current, that truth and freedom appear only as dreams. Could they but see things as they exist in the unvarnished coloring, in which all things are seen *here*, there is not a class in the community but what would be aroused to more exertion than they had before imagined themselves capable of. They would join as a band of brothers, regardless of all party differences, aye, *as one man* they would go forth and *uproot* the evils, which are darkening our land. I charge them upon no particular class, for the very age seems to be marked with forgetfulness of duty, and we are all involved. And there is no way to promote the public welfare so effectually, as to pass and put in force laws of wisdom and mercy, and let honest men execute them. There are some who, though corrupt, profess sound principles. And there are others, though in the main honest, who give coun-

tenance to error. Let not the people listen to the counsels of any of these.

Among the great national acts which the times demand, the first to be thought of is a bankrupt law. There are enough in this Union, who are groaning under privation and suffering for the want of one, to people *a new state*. Mr. Webster, in his speech in the Senate, estimated them at something like two hundred thousand active men; and if there should be added those connected with them, they would almost equal the population of Massachusetts. And the *voice* he raised on that occasion was worthy of a man and a statesman. *Were he dead*, all would acknowledge it, and seek the spots where its echo might be listened to. No *party* would dare to claim its inspiration, but the nation and the Constitution would declare, "IT IS OURS." Then why not listen to a LIVING MAN!

And another, that must be—I hardly need to name it—is a law for the abolition of imprisonment for debt. It is true, a *declaratory RESOLVE*, that no man shall be imprisoned except for crime, would save much trouble if passed soon, and it would meet with a loud response from every honest heart in the nation. But if the assembled representatives of the people delay it, then the wisdom of another power will *decree* it. And if among "the things that are retained which were never acknowledged, and those acknowledged which were never retained," this abomination shall escape the destruction to which the Declaration of Independence consigned it, for still another period, then another and a new article of the constitution will ride over all.

It is time the work was begun. It is time the people should enjoy the liberty they have so long pro-

fessed. All confess it ; no man doubts it ; and the ablest jurists in the land have proclaimed it. Then why delay its consummation ?

But the lasting monument of true liberty was never built in a day, nor by a party. It must be not only the work of patriotism, but also of virtue, — that virtue now exists. We have seen the progress of the durable pile which commemorates the first great struggle of a young and vigorous nation for independence. Its deep foundations are laid in the blood of the people. They were poor, and had little else to offer ; freely, and without price, they gave their all. Veneration for the valor of their sires called upon their children to mark the spot of their fathers' sacrifice ; and the everlasting hills opened their bosoms and gave up their treasures to consecrate the altar ; but blood and gratitude could not alone effect the work. One generation has passed away, and another is hastening onward to its rest ; and yet the task is not accomplished. In all this there is wisdom ; it is the emblem of man's growth, and a pledge of the durability of his aspirations ; and now we see its completion at hand. Neither sacrifice nor gratitude could promise it ; but that alone which is *all sacrifice and all power* has ordained it.\* She who *reigns without a diadem* — who has encircled everything that is lovely — who is the index of a nation's progress, has now stepped forward to consummate the work of a nation. That monument, — let it rise, and let every succeeding generation add to the pile, each marking its onward progress, till its foundation in blood shall be forgot-

\* The Ladies' Fair has produced \$25,000 and upwards, and the Bunker Hill Monument will point to heaven.

ten ; till the sacrifice it cost shall live only in the history of the past, — and higher and higher, till all nations “ may see the reflection of the morning and the evening sun ” ; and instead of the clashing steel which rings in *our* ears, let them hear only the voices of cherubim at its summit, chanting *pæans* to LIBERTY, MERCY, and TRUTH. And what can *we* do to show that we are worthy of the hands and the hearts, that ~~have~~ pointed the shaft that shall endure, until liberty shall every where be the attribute of man ?

We can respond to that voice of lamentation, which is heard in solitary places, and the weepings of those, who cannot be comforted, whilst their sons are in bonds. Man *does not suffer* ; but when the iron gate is closed on those whom woman loves ; when they are consigned to the granite cell, *SHE* finds no pillow soft, no solace for her aching heart ; no rainbow rises in her eastern sky ; no brightness gilds her setting sun ; all is cold and cheerless solitude ; all is desolate. Then, in the name of woman’s sorrow, **LET THE POOR GO FREE.**

And now, my reader, I will tell you my story — it is short. I was sued for a debt of less than fifteen hundred dollars, on which execution was taken without defence — and I was cast into prison. It is long since my embarrassment began, but to my present recollection, I have never been persecuted or prosecuted for a single debt contracted by myself and for my own benefit.\* And of my real estate in New Bedford, amounting to ten times the debt I am in jail for, I never conveyed, nor released, nor covered a single dollar to evade a creditor. In fact, more than the

\* Yes — I have been sued in a few instances on such debts, but by those who owe me balances that would twice pay the Duxbury demand.

amount I mention is now as free as it was the day I bought it, as the County registry will bear witness, but I have paid thousands to relieve other portions from embarrassment and from mortgage, and to prevent those, in whom I placed no trust, from hemming me in, that they might oblige me to sell for a song what belonged to, and has been held sacred for my creditors. But all this estate was locked up in courts the moment the Duxbury Bank commenced their suit ; it was held for thirty days by them after execution was issued. I therefore had no power to sell it to pay the debt, and before the thirty days had expired, and it was released, so that I could execute a title to friend or foe, I was locked up in this prison, thus "commanded to make bricks without straw." Such has been the tyranny of the Pharaoh that has oppressed me. The instruments are known to the reader.

To my creditors I can now say, if they will accept of such as I have, I will pay them all I owe them ; or if they prefer it, I will continue faithfully to act as their agent, and serve them as I have done to the best of my ability. The Duxbury Bank shall be paid. I would not contend with a famished foe ; and as my imprisonment involves the whole question of the constitutionality of their act, if I can command the means, I shall commence an action FOR FALSE IMPRISONMENT in the United States Courts, and try the issue, whether the Declaration of Independence is an empty parchment, or a real CHARTER OF LIBERTY.

"One hundred days" are past, and my *duty* here is done. Still I wait.

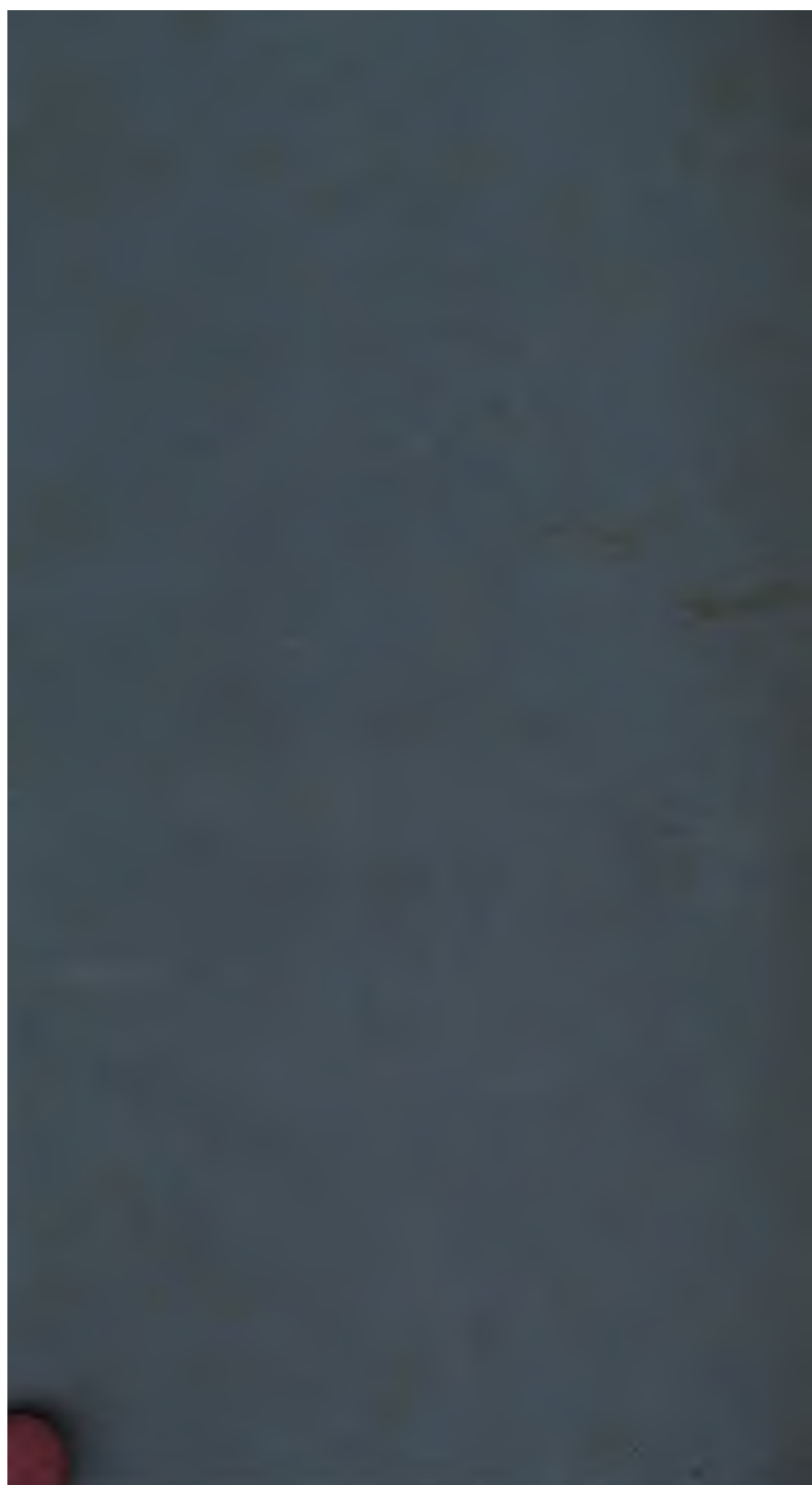
*September 24, 1840.*

#### NOTE.

I HAVE not waited in vain ; for I can now control five hundred dollars, to go to the establishment of a LIBERTY FUND, to be appropriated to try any action which may be best calculated to test the question, which is the subject of the foregoing pages. In it the citizens of every state are equally interested, and if they coöperate, there cannot be a doubt, that a full and final triumph will be achieved. If those, who suffer either from oppression or the fear of it, will now unite, I shall be glad to work with them, and meet them at the Supreme Court of the Nation. But I have no more fear of prisons ; and if the offer is not accepted, when I leave my present abode, (if ever,) I shall return in peace to my plough.

*New Bedford Jail, Oct. 12, 1840.*







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MEMORIAL  
OF  
BENJAMIN RODMAN,  
TO THE  
SENATE AND HOUSE OF REPRESENTATIVES  
OF MASSACHUSETTS,  
IN GENERAL COURT ASSEMBLED.

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The Gift of  
Dr. C. E. Buckingham,  
of Boston. (N. 26. 1840.)  
Recd. June 3, 1841.

## MEMORIAL.

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Your memorialist comes before you, not to excite your compassion, nor to ask for your sympathy; not to complain that the weight of the law has pressed heavily upon him, nor to excite your sensibility, because he was forced from the endearments of home, and obliged to take up his abode between huge blocks of granite, shut in by grates of iron. These are evils to which the citizen is subject, when, in violation of the laws of the Commonwealth, he renders himself obnoxious to the penalty awarded to crime, or when, under circumstances of suspicion, it may be necessary to guard the public against the presumed violence of an individual. And although they are evils, yet, under *such* circumstances, they are hardly susceptible of complaint, since in the equality of the laws all are subject to the same.

In the progress of civilization, and in obedience to the precepts of the Christian religion, the doctrine that pains and penalties are attached to individuals as punishment for offences, is no longer tolerated, but they are awarded merely in preservation of the rights of the people, and the attendant suffering is merely an *incident* and never an end;—hence the whipping post and the pillory, are no

longer a part of the machinery of legal penalties; and the gallows, which is still retained—as an evidence that with many the Jewish dispensation is more valued than that of our Saviour—is no longer so used as to impress the public with its horrors, and, from the privacy of its application, is scarcely known to exist. The disgust which its infliction produces in the minds of Christian jurors is so great, that the difficulty of discovering the real intent of an act (from the discordant and opposite evidence adduced), and the sensibility of the man, so interfere with the judgment of the juror, that, in the absence of *absolute* testimony, the greatest depravity often goes unrebuked, and the peace of the community is endangered, because there is no medium between unlimited freedom and extreme cruelty. Now the gallows stands almost as a matter of fiction on the statute book, to impress the reader with the rigor of the legislation of past generations, and with the difficulty, (amounting almost to impossibility,) of finding a jury, willing practically to acknowledge that any rational being of God's creation, has for an offence against *human* laws, forfeited the privilege of life, and with it the ability of being reconciled to the Author of man's kindred immortality.

But your memorialist has no intention at this time of remonstrating against the cruelty of a law for capital punishment, which he considers a blot upon the statute books. The records of the Legislature will bear ample testimony to the sincerity of his opinions and the full expression of them, when he had a seat in the Senate; yet he has no doubt, that the time is not far distant when the sacrifice of human life will be stayed, and the deprivation of liberty will be adopted in its place.

There is another subject, however, to which your me-

moralist would call your attention. It is one also on which he raised his voice in vain in the Senate,—that of **IMPRISONMENT FOR DEBT**. This is emphatically giving to one citizen the power of persecuting another, and setting up one man as the judge of the honesty of his fellow ; and on his own mere suspicion, arms the malignant and the mean with a power to inflict a punishment, which in no other case can be inflicted without the intervention of courts of high responsibility and judicial reputation, and the verdict of twelve unbiassed and honorable men,—a power unknown to the Declaration of Independence, and in contravention thereto.

Yet incarceration for debt is daily, almost hourly, exercised, with all the facility which cunning can devise, and all the silence which marks a procession to the tomb. It is true, this mode of compulsion is considered an amelioration of the laws of barbarous days. Once a debtor was subject to be sold into slavery by his creditor, and the wife and children were doomed to follow the fortunes of the unhappy father. And if such a law were carried into effect, under a government *no more despotic* than that of Russia, it might perhaps vie in humanity with the present custom of Massachusetts. In that case, the father and his family might be restricted to the servitude of a chief, whose domain is as extensive, and whose subjects are as numerous, as those of many of these United States. The family could not be separated, nor could they be transferred from one estate to another ; all might live together, work in the same field, and eat at the same table. Not so here. A man may be *trapped* in any county of the State, locked up in a “ loathsome jail,” far from his friends and family, on the mere accusation of any one who can, with truth, swear that he believes the debtor owes him

ten dollars ; and if the gratification of malice requires it, he may swear *falsely* to the same fact, and with the same impunity, and to the same end. The *modus operandi* to effect this object may differ, under different circumstances, or different degrees of malignity, in the swearing creditor. If secrecy is necessary, and the debtor is to have his feelings played with, or his spirits broken, by a little exercise of tyranny, for the sake of bringing him to such terms as may entitle him again to the *favor* of the creditor, he may proceed in one way, thus : 'He may go to a justice of the peace, (who may know law enough for this operation,) and make the oath required. Then the justice's writ is filled, and on a given day, some weeks ahead perhaps, the debtor is summoned for trial before the justice, and as such cases commonly occur where there are no friends to interfere, the poor debtor is sent off to jail for safe keeping. 'No one perhaps knows of the case, and of course the justice and the creditor keep their own counsel. Thus a stranger, perhaps a very poor man, or quite as likely a young man, who has friends and family in the enjoyment of every comfort of a happy home, is hidden from the eye of the world, until his creditor has so destroyed the energy of his victim, that he may be willing to submit to any terms his persecutor may propose—perhaps go round the world at his bidding, to earn the ten dollars, which *may* or *may not* be due. Is not this oppression ? Is not this tyranny ? Again,—the same preliminary process may be gone through with, and a writ issued returnable at a court of common pleas, to sit some three or four months from the date of the writ. Still the demand,—ten dollars,—perhaps half of that, may have accrued in a manner that would not be recoverable in any court of law,—being a debt contracted in violation of the laws of the Common-

wealth. But the poor stranger finds no bail, and is locked up; perhaps judgment is issued, and again he is the inmate of the jail;—he then requires money to be able to cite his creditors, and if it is obtained, in thirty days more he is admitted to the poor debtor's oath, and is discharged.

These cases may occur, when there is only a single witness, and he an interested one, either by a true declaration or by *perjury*;—and they may happen when the witness would be driven from the stand, were he confronted, for want of a character for truth. Yet for a defence means are wanted, and often they are not to be had, or, as is frequently the fact, knowledge is lacking of the only method to be pursued to obtain justice. In illustration of this supposition, a case which came under the observation of your memorialist, may be given.

A young man, a laborer and farmer, at the death of his father, inherited, with his brothers and sisters, a small farm; they enjoyed it together, and the estate was not divided when the eldest brother died. A brother-in-law ordered, and procured a coffin; payment for the same not being forthcoming, a writ was issued against the next eldest brother, and he summoned on a given day to appear before a justice. An attorney issued a summons and filled it up so miserably that the young man could not read it; he called upon his neighbors to decipher the missive, but in vain. The day of trial came, and the defendant was defaulted, and forthwith sent to jail. Thus, an individual who had made no contract, owed nothing for the coffin, and had no more to do with the maker of it, than with the Governor of the State, was thrown into prison because he could not read what a Bristol lawyer had written.

Such acts can receive only the unmeasured rebuke of the humane portion of society, and when known to be

tolerated, must stamp the power that authorises them with the character of *tyranny*—and are thus spoken of by the learned Blackstone :

“ To bereave a man of life, or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism, as must at once convey the alarm of tyranny throughout the whole kingdom. But *confinement of the person*, by secretly hurrying him to jail, where his sufferings are unknown or forgotten, is a less public, less striking, and therefore *a more dangerous engine* of arbitrary government.”

Your memorialist is aware, that all do not take the same view of this subject with the learned Judge, and such acts are considered by the *inhuman* or the unreflecting, as mere incidents of no consequence, and hardly worth the consideration of grave legislators. And the question is asked, what laws can be made that will not be abused by the *malignity* of some, and through the *ignorance* of others ? But your memorialist considers this answer to questions of right and liberty, as trifling with the sacred privileges of freemen, and if there are *many* who thus reason, it is the duty of those who are deputed to represent the rights of the humble as well as the high ; the poor as well as the rich ; the unfortunate as well as the prosperous ; the infirm as well as the strong ; the ignorant as well as the educated, to put their hands to the work and *never look back* till they have disarmed the oppressor of his power—though the instrument he uses be as hidden as the sting of the asp—and he himself but a buzzing insect.

Your memorialist was a member of the Legislature in 1835, when the Revised Statutes were enacted, and the odious feature of that code was suffered to remain, and a man was left subject to the tender mercies of his fellow-



man, if the one owed the other ten dollars. Your memorialist did what he considered became him, in opposition to the section approving it. He represented a portion of the population of the State, subject to great fluctuations, and including many, who, in the pursuit of their vocations, change their abode almost as often as the birds, which in winter and summer seek a more congenial clime :—and the influence of such a law was easily foreseen. But he himself was among the number whom the disasters of the preceding year had injured in their estates, and he also was left subject to the penalties and uncertainties of a debtor. He therefore urged not the plea against the law to its full extent, lest cowardice might be construed as a reason for his argument. But it was faithfully done by others. And in process of time, the same equal laws did leave him also at the mercy of those who (as was the case in the early days of Christianity) play the oppressor in proportion to the debts for which they themselves need forgiveness.

At the suit of the Duxbury Bank, and by the order of its president and directors, your memorialist was cast into prison. Here he had an opportunity of testing the influence of that humanity,—that love of the rights of the citizen—which, in the arguments before the Legislature, were attributed to the enlightened sons of our Commonwealth. “ The prison was to be a whip in the hands of the injured creditor, and a terror to those who seek to defraud the innocent ; but the man was not supposed to be born, who, to gratify malice, revenge, or avarice, would thrust a fellow-citizen into a common jail, unless there had been a fraudulent conveyance to cheat a creditor ! ! ”

The theory was beautiful, and the argument was beautiful too, because it came from those who were themselves honorable men, who believed what they said, and dreamed

not that there existed within the borders of the State, much less within the walls of the capitol, those who could calculate the unhappiness of a mother, the liberality of a brother, or the tenderness of a sister, as a means to cancel a debt, without resorting to the course which the law pointed out, of taking the visible property of a debtor, which the same law would render it fraudulent in that debtor to conceal.

But there were such ;—those who were determined to have the pound of flesh ; and not only the flesh, but the blood ; and not only, if need be, the blood of the victim, but that which may be made to follow the knife that was applied to the dearest sensibilities of friendship and affection.

Execution was issued at the June term of the Supreme Court, held at New Bedford, for the County of Bristol, for a debt of one thousand dollars, and interest and costs, contracted before April, 1834. At the commencement of the suit, and during the delay of execution, all the real estate in New Bedford, possessed by your memorialist, was of course attached and held to answer for the debt. By law, it was held on the same suit thirty days after the execution. How then could your memorialist dispose of it and convey it whilst thus encumbered ? How could he realize its value in the constitutional currency of the United States, when thus grappled by the Duxbury Bank ? But long after the expiration of the last-named period, orders were given and your memorialist was locked up in jail, and there he remained incarcerated from the 16th of June till the 17th of October following, with no other communication from the Duxbury Bank, than the copy of a “ vote ” as gratuitous as it was insulting, and which bore no other construction than the language too often

addressed to poor debtors, and is literally applicable to a dead dog, the legal intent of which was to inform your memorialist, that he must remain their prisoner for life. And so he must have remained under the operation of the present laws. For the property which the Duxbury Bank had their *lien* upon, and which they neglected to appropriate, was equally beyond the control of your memorialist at the expiration of the thirty days, as it was during that period ; for it then fell by heirship to a subsequently attaching creditor. Your memorialist, unaided, could look to no other source of relief, than to the repeal by the Legislature of all the laws giving such arbitrary and unlimited power, to those who, in applying them, convert them to cruelty, and degrade the code of the Commonwealth.

But the aid that was proffered your memorialist would not accept, till its further refusal would have more the effect of cruelty than of independence ; and at last he was relieved by the kindness of a mother, at a time when the approach of her eighty-third winter demanded that her feeble step should have all the assistance which filial support could offer.

Thus did the Duxbury Bank Directors hold in their grasp *ten times* the amount of their debt, and let it go only that it might pass into the hands of another, and whilst they refused to retain it in liquidation of their demand at a fair appraisement, according to law, they relaxed not their gripe on their victim, and nothing but a mother's aching heart could unloose it.

But your memorialist will leave these revolting recollections,—for they too often forced themselves upon his mind during the many long days, in which the morning sun only revealed itself through the bars of iron that separated

the prisoner from the world, and confined him to the company of those more unfortunate and more unhappy than himself,—and proceed to examine the popular argument against the repeal of all laws for the imprisonment of debtors. And this is founded so exclusively, with respect to the rights of property, that a regard to the happiness and liberty of *man* would seem to be almost incompatible with the security of wealth.

And what is that popular argument? It is, that the remedy existing at the time a contract is made, cannot be annulled or modified, without violating the 10th section of the first Article of the Constitution of the United States, which provides that “No State shall pass any *ex post facto* law, or law impairing the obligation of contracts.” And these two terms are confounded together, and any law which repeals any part of the remedy which existed at a time any contract was made, before that contract is fulfilled, is called an *ex post facto* law. And on this ground, year after year, all improvement in the laws concerning debtor and creditor has been resisted in Massachusetts, unless in reference to prospective action. And the doctrine of *ex post facto* laws, has been perorated, till it has been received as a ready answer to any proposed advance in legislation, when the poor debtor was concerned, and has given rise to a species of law-making, which would soon place the science of jurisprudence on the footing of a mechanical trade. And were it not that even now some of the laws in our statute books lie side by side, more like the contrasting colors of Mosaic, than any thing that pretends to be a continuous and perfect work, it would hardly be necessary to repeat the opinion, which was delivered by Judge Marshall touching this subject. But here are his words: (*Vol. 4, Wheaton's Reports, pp. 200, 201.*)

“To punish honest insolvency by imprisonment for life, and to make this a constitutional principle, would be an excess of *inhumanity*, which will not readily be imputed to the illustrious patriots who framed our Constitution, nor to the people who adopted it. The distinction between the obligation of a contract, and the remedy given by the Legislature to enforce that obligation, has been taken, *and exists in the nature of things*. Without impairing the obligation of the contract, the remedy may certainly be modified as the wisdom of the nation shall direct.

“Confinement of the debtor may be a punishment for not performing his contract, or may be allowed as a means of inducing him to perform it. But the State may refuse to inflict this punishment, or may withhold this means, and leave the contract in full force.

“Imprisonment is no part of the contract, and simply to release the prisoner does not impair its obligation.”

Such is the expressed opinion of one of the most learned jurists that our land could ever boast of, whose opinions have stood the test of scrutiny, and no one of equal authority has ever appeared to impugn the one here alluded to ; and yet the Legislature of Massachusetts, without memorial, without petition, slurred it over, on the ground that to take away the odious penalty, which was attached to the non-fulfilment of a contract, when that contract was made, would be an *ex post facto* law. Were it not that our Legislatures have often had a reputation for wisdom, and their acts generally been held in respect by all who were acquainted with the happy results and beneficial influence which have followed their enactments, their inconsistency and vacillating conduct, in regard to this one subject of imprisonment for debt, would be just cause to excite the ridicule of the world.

*Ex post facto laws!*—Let us see to what respect a former legislature is entitled, for its rigid observance of the constitutional principle which guards the citizen against oppression.

By former laws, the regulation of prisons was entrusted to the county commissioners of each county, who established or enlarged the jail limits at their discretion, according to the convenience, the necessity, or the humanity of the case.

In 1834, the Legislature, actuated by a more enlarged humanity than had before been a governing principle, declared that “the limits of the several jail yards in this Commonwealth, shall be so extended as to comprehend all places within the actual boundaries of the city or town in which such jails are situated.” Yet in 1835, this law was so far repealed as to create an odious distinction between the individuals who had contracted debts on the last day of March, and those who had done the same on the second day of April, in the year 1834—not only disregarding, but actually destroying, that equality of rights which is the *boast of our free institutions*. Well did Lt. Governor Armstrong ask: “Where are the petitions for its repeal?” And well did he ask again: “Is the answer to this question found in the fact, that six months afterwards Governor Davis, who approved and signed this act, was re-elected by forty-four thousand votes?” And well may *we* ask, has his conduct in this act of humanity been rebuked, when, within the last two months, he has been re-called to the Chair of State by over seventy thousand votes? (See appendix.)

By the law of 1835, those who failed to perform a contract entered into on the 31st March, 1834, and who are prosecuted thereon, are confined to the limits of a few

rods ; whilst the limits allowed to debtors on contracts made on the 2nd of April, extend to their own homes, if they have any in the town where the jails are situated. Instead of obliging the debtor to fulfil his contract, under penalties which existed at the period of its formation, *a new condition is made by the Legislature*, and, what is most astonishing, adding to the power before possessed by the creditor to oppress the debtor.

Again, we find by a law passed the 16th April, 1836, to establish jail limits in the county of Worcester, the county commissioners are directed to establish the limits of the jail for the debtors who made contracts previous to the 2nd of April, in the manner and to the extent provided by a law passed in 1822. Under this oppressive, *ex post facto* law, a fellow-prisoner of your memorialist, who was a resident of Worcester county previous to the year 1834, and who was ruined by the misfortunes of 1828, might have been incarcerated according to the custom of some dozen years past, before the Legislature began to determine, in their own body, to what extent unfortunate men were entitled to the benefits of locomotion.

Here, your memorialist would remark, that the individual alluded to, after his misfortune, was banished by the laws of Massachusetts. But in the employment of others, and at a distance, his talents and integrity procured him new occupations, and in their pursuit, he was again called within the limits of the State. He was sued and held to bail. Again he pursued his calling in a distant State, and when he was at an extreme point of the Union, his bail was summoned on a *scire facias*, to answer why they should not surrender the debtor. Time was barely allowed for his return, (when accidental delays were considered) but he did return just in season for the June term of the Court

of Common Pleas for Bristol County, and he was shut up thirty days, to await the execution on which he might be confined thirty days more. But no execution appeared, and he was released, whereby his creditors may have an opportunity again (and that opportunity in Worcester County, perhaps,) to place him under the influence of enactments passed nearly twenty years ago. This is a case where there can scarcely be a doubt, and the release of the prisoner amounts almost to a demonstration of the fact, that the creditors had no other hope, nor wish, than that the friends of the debtor should be compelled to discharge the debt. Else, why should the opportunity be taken to summon the bail, when the principal on the bond was several thousand miles from the place of the sitting of the court, and also several thousand miles from the place of his usual abode? And the act brings the planners of this scheme, within the *very letter* of the terrific denunciation delivered by Mr. Webster in the Senate of the United States, where he used the following language :

“ Sir, there is one crime, quite too common, which the laws of man do not punish, but which cannot escape the justice of God ; and that is, the arrest and confinement of a debtor by his creditor, with no motive on earth, but the hope that some friend or some relative—perhaps as poor as himself—his mother it may be, or his daughters, will give up all their own little pittance, and make beggars of themselves, to save him from the horrors of a loathsome jail. Human retribution may not reach the guilt, human feeling may not penetrate the flinty heart that perpetrates it ; but an hour is surely coming with more than human retribution on its wings, when that flint shall be melted, either by the power of penitence and grace, or in the fires of remorse.”



But if that fire has not yet done its work in the hearts of the creditors, they may still wreak their little vengeance upon their victim, and hunt him through all the states of the Union, as the present laws of the United States are interpreted. *And they may find him ;—and they may imprison him ;—*they may immure his body as they did in the New Bedford jail, where the granite and the iron formed the walls that enclosed him. They may again consign his snow-white head to the pallet of straw, but they can no more destroy his spirit, or crush his frame, save in the appointment of God only, than they can understand the stern integrity which imparts a brightness to the cell of the captive, that is likened only to the

“Soul’s calm sunshine and the heartfelt joy.”

*Ex post facto laws !*—Let us look a little further into this mighty barrier to the poor man’s liberty, and see if it is not like the web which holds fast the weak, but which is broken by the strong, and *for the strong*.

In 1837, there was a general suspension of specie payments throughout our country, and it would be well for bank directors and bank stockholders, to bear in mind, that there are vicissitudes of fortune, which destroy alike the well planned designs of corporations, with charters, and wealth almost unlimited, and the merchant with his floating warehouses, as well as the hopes of the humble, whose family is sustained by his daily labor. But the exigency, though appalling to many, was met by the General Court of Massachusetts with promptness and effect, and whether rightly or wrongly, the banks were saved from the ruin with which they might have been visited.

But how was it done ? The answer is ready. By a law which was, *if the remedy be a part of the contract*, an *ex post facto* law. An act passed the 25th of April, 1838,

declares "the operation of the 29th section of the 36th chapter of the Revised Statutes is hereby suspended till the first day of January, 1839, provided," &c. And the section suspended is in the following words:

"If the officers of any bank shall refuse or delay payment in gold or silver money of any note or bill of such bank, presented for payment in their usual hours of business, the said bank shall be liable to pay to the holder of such note or bill, as damages, at the rate of twenty-four per cent. a year, for the time during which such payment shall be delayed or refused."

The propriety and necessity of such a check upon the operation of a vast machine, set in motion by the power of government, need no elucidation, when it is considered that, by the engine thus moved, are carried along, to an unlimited extent, the comfort, the prosperity and the happiness of an immense portion of the community. And no man can say that such a check is unreasonable or excessive, under ordinary circumstances. And what are the provisions which limit the total suspension of the provident remedy in question? The most important are, that every bank in the city of Boston, should redeem its bills of a denomination of five dollars and under, and that every bank out of the city, its bills of a denomination of three dollars and under, in specie, and that no bank whatever, shall have in circulation an amount of bills greater than seventy-five *per cent.* of its capital stock.

Thus, for instance, the Duxbury Bank, with a capital of \$100,000, and perhaps a circulation of some five or six thousand dollars, in bills under three dollars each, might, by redeeming this small sum, have liberty to issue \$75,000 in bills of \$5 and upwards; and if occasion required, for the benefit of its directors, they might discount their own

paper to this amount, to aid them in covering the ocean with ships, or shingling whole townships in Maine, with bonds and mortgages. And yet the poor man who had received a few of their five-dollar bills for his labor, and who might be able to hold them, provided his remedy would pay for the risk, might, under the influence of a general panic, and *without the remedy*, be obliged to pay them away, at half of their nominal value, in support of the little ones that depended on him for bread.

Yet an institution which had received such a boon from the Commonwealth, holds in its iron hand, a creditor beyond the period of ninety days, *when all jail limits* are narrowed down to the space assigned to felons and murderers. And at the moment your memorialist is writing, (December, 1840,) the same narrow room, and the same bed of straw, which were his portion, are tenanted by an offender against the laws, awaiting a trial which may consign the prisoner to the gallows.

But after all these advancing and receding steps in legislation, by which the remedy is renewed, and retained against the poor, and is released and suspended, as respects the powerful, your memorialist believes that the plea of *ex post facto* laws is no longer valid in the General Court of Massachusetts; and whether willingly or unwillingly, your predecessors have destroyed, by their own acts, every vestige of argument for denying the validity of the illustrious Marshall's opinions.

And the anomaly of the same government's having a scale of different gradations, like a ladder, with one roll above another, for different citizens in the same circumstances to stand upon, is so repugnant to equal constitutional rights, that the fact of its existence is enough to justify the question, whether such a government can lay

claim to the elevation which all so earnestly seek in the rank of civilization that characterizes our age?

Your memorialist, therefore, implores that the barbarous edicts which create such odious distinctions, and, what is more, arm the tyrant, whether little or great, with the power to oppress, may be expunged and utterly blotted out from the statutes of Massachusetts, that the poor may go free. He asks not this as a favor to himself; his experience in prisons has been sufficient to take away all fear of them. But that experience has taught him, that they have become, as the laws are now administered, places better adapted to the persecution of the innocent than to the reformation of the vicious, or the preservation of the public peace.

Nor let any one believe that your memorialist is actuated by a spirit of innovation; the principles upon which our laws are founded, are in accordance with the benevolence of the wise and humane, and even their forms require but little change, to meet the feelings of the most philanthropic; for as long as laws are required, they must be attended by penalties and restraints, to those who violate them. All that is necessary is, that they should be carried out in the spirit which must be supposed to have actuated those who formed them. And, with some few exceptions, probably the code that governs our Commonwealth is marked with as much justice and mercy, as can be anywhere found.

Your memorialist has before said, he was a member of the Senate, when the Revised Statutes were enacted; he was also a member of the Committee that passed upon them in the recess of the Legislature; and then, if not before, he could not but be impressed with the regard to the public good, in which they were originally instituted;

for although not of a profession that required law to be made his study, there were circumstances attending the sittings of that Committee that prevented the dry details of past enactments from being either wearisome or unproductive of interest. At those sittings attended the Commissioners who had passed years of labor in preparing the code, and who were then present to assist in the deliberations of the Committee, and give the light of their wisdom and experience on such parts of the report, as might require elucidation or arguments for their adoption. And that duty was most ably performed; for besides the notes attached to many of the chapters, which evinced a profound knowledge of the spirit of former laws, and contained a deep view of the requirements of the age, and also the reasons why important amendments were necessary to make the whole consistent, and at the same time conform that whole to the wants of the community; there were continually elicited from the Commissioners sound and beautiful sketches of the history of some of the enactments of our ancestors, and clear illustrations of the origin of others. And they often entered into such full explanations of the system of jurisprudence, as could not fail to impress the least observing with the wisdom as well as the beneficence of a science, that has become the great controlling power of the Commonwealth, and which imparts blessings to its humblest citizen.

But in that report, you find no retrograde stepping into the regions of barbarism. You find not there the 13th section of the 14th chapter of the Revised Statutes, creating odious distinctions between citizens similarly situated. It is the Legislature only that enacted it, that is accountable for the interpolation and the inconsistency with which it is marked. Nor, as has been before remarked, could those members of the Senate, who voted

for the addition, have anticipated how it would be used. Their names are recorded in manuscript on the blank leaves of the volume which contains the report now lying open before your memorialist, and from his knowledge of their characters, he may safely aver of many of them, that rather than give a new weapon into the hand of the oppressor, they would join in a decree to annihilate *all jails*, and would themselves perform a pilgrimage to bear the keys, that had locked up the innocent from their friends and their firesides, to a *befitting* place at the shrine of Washington, by the side of that which had performed a similar office in the French Bastile.

And why should a clamor be raised about the dishonesty of debtors? Are those that fail different from those who succeed, when they may be, in the course of time and events, the *same individuals*, who have only changed positions? Are new laws required to guard the rights of the fortunate against those who but a day before conferred a benefit by their association and their traffic? Who does not know, that, though misfortune may develop more strongly the characters of the dishonest, yet it seldom produces a *change of opinion* in regard to them? They are trusted, their business is solicited, when it is often *known*, as well before as after their misfortunes, that they only require an apology to cheat all they can. The creditor, then, counts his chances, and adds a greater profit in proportion to his chance of loss. And when misfortunes do come, what right has the loser to ask new laws for his protection, when nothing but his own cupidity induced him to embrace the chances which eventually lessened his gains. But so far from its being a fact, that debtors are more obnoxious to suspicion of immoral intent than creditors, we find, throughout the Union, that those who have no longer the means to carry on business for themselves,

are placed in the highest offices of confidential trust by those whom misfortune has not yet tried. And how many debtors, after struggling long, have at last fallen by the usurious extortion to which they have yielded, in the hope of self-preservation? And although they submitted to the operation of the knife, careless of the blood that followed it, they have very seldom appealed to the courts, to recover the "threefold" value of the extortion, which the laws would award to the sufferer. On the contrary, they pay *when and all* they can, and at last fall, without an audible murmur. This wholesale accusation against debtors proves little for the honor of the accuser, and he forgets that those who charge *all* with villany, produce a verdict where *they* least expected or desired it.

But, gentlemen of the Legislature, if you will not listen to the voice of your fellow-citizen, take counsel of the feeling of the age. Already the deep surges of humanity begin to beat around us, and are echoed by the press. Our sister states, both north and south, are discussing the value of human liberty anew. Some have gone before us, and wait only for the national government to ratify their acts, that their soil may no longer be disgraced.\*

Virginia has awaked to its enormity. Virginia! the land of the statesman,—whose hills still echo back the voice of her civilians raised of yore in the cause of civil liberty. Virginia! who gave to the nation *her first* and the world's most honored representative of HUMAN GREATNESS,—who has responded again and again, and *now again* to the call of the people, to give them a leader in the cause of freedom and happiness. Hear also her. Her present Governor speaks thus :

\* That national act is passed, and signed by the President.

"I recommend to your consideration, the expediency of abolishing imprisonment for debt altogether. Civil executions are intended to subject the *property*, not the *persons* of debtors to the payment of their debts. *Imprisonment, as a remedy, is not necessary to the creditor's rights*; and as a punishment, it visits the misfortunes rather than the crimes of its victims. Its constraints are ineffectual as to the fraudulent, and unnecessary as to the honest debtor. By rendering final process on judgments effectual to reach lands and *choses in action*, justice may be done, without retaining ignominy as one of its attributes."

But there is no occasion to go abroad for arguments, in favor of repealing the laws which oppress the poor, and consign the unfortunate and the criminal to a common fate. We have statesmen of our own, who have spoken, and one who is of us, though not *now* with us, has also raised his voice—one who will suffer nothing by comparison with any that ever sat in the chair of the Commonwealth. Your memorialist had the honor of a seat in the Council of Gov. Everett, and never did he see an act, or hear an expression, which would indicate a thought, that he could prefer any selfish interest to the common good. It is true, he at last suffered *ostracism* by a *single vote* in a hundred thousand, because he would not thwart the resolves of the Representatives of the people, though he might have thought their acts unnecessary or premature; yet had he done differently, he would have merited the same fate not from one hand only, but from tens of thousands. The part he acted, was that of a faithful pilot, who deserts not the helm, whether the winds are fair or adverse. And when the powers that *raise the storm*, desert him, because the hoped-for haven cannot be reached, the dishonor is theirs, not his.



Governor Everett, in his Inaugural Address, delivered before the Legislature of 1836, on the subject of Imprisonment for Debt, holds the following appropriate and humane language :

“There was a period, when the insolvent debtor was subject to be sold as a slave, to be tortured, to be put to death. It would have been as good an argument in reference to these extreme severities, as to that of imprisonment, that, being part of the contract, they should be abolished only in prospect ; while in the case of existing obligations, the debtor might be enslaved, tortured, and cut to pieces as before. The imprisonment of a man of probity for debts honestly contracted, and who has honestly surrendered all his property to his creditors, is contrary to every principle of religion, humanity, and justice. *No contract can change the nature of the procedure ; no implied consent of the parties can make it equitable. Human laws may authorize it, but they cannot make it just. Every principle, therefore, which requires the abolition of imprisonment for debt at all, requires its total abolition.*”

Your memorialist subscribes himself,

Respectfully, your fellow-citizen,

BENJ. RODMAN.

*New Bedford, January, 1841.*

## APPENDIX.

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The following is an extract from Gov. DAVIS's Inaugural Address, delivered before the Legislature of 1834, and requires no comment by the memorialist.

"It is a duty which I owe to humanity, to invite your attention to another subject. The laws which authorize a creditor to incarcerate his debtor, under judicial process for the non-payment of debt, operate with oppressive hardship upon the poor and the unfortunate. It is no crime to be poor, or to owe money for debts honestly contracted, and yet the imprisonment of one who has no ability to pay is often a heavy and grievous punishment inflicted, not on him alone, but also on a dependent and suffering family.

This authority in the creditor is derived from the modification of ancient colonial laws, once tolerated when public sentiment was less jealous of the power of restraining the person than at this day. These laws delivered over the delinquent debtor to be sold into service, as a bondman, to labor until the debt was cancelled.

This humiliating service, so degrading to persons born to the rights of citizens, and so analogous to slavery, fell into discredit, and laws authorizing an imprisonment for a term of time, were substituted.

By this change, the debtor is released from the liability to an odious bond-service ; but he is a prisoner, instead of a slave, and in some respects in a worse condition than before. As a bondman, he was put to laborious service ; as a prisoner, he is often immured with felons. As a bondman, he discharged his debt ; as a prisoner, his time is wasted, and his morals exposed to the influence of depravity.

The right to deprive a free citizen of his liberty by imprisonment, when he has been guilty of no offence, and of no wrong, may well be

questioned ; but however this may be, the power, it appears to me, is liable to abuses, which render it inexpedient to confide it to any one.

It is believed often to occur, that helpless families are cast upon public or private charity, because their natural protectors, on whose daily exertions they depend, are torn from them under this process by unfeeling creditors. When the poor man's time is most precious to him, when, by toiling under a burning sun, through a long day, he can earn a dollar, he is followed into the field by an execution, issued designedly at this moment, upon some small claim, and presented with the alternative to pay the debt, now swelled to nearly double its amount by costs and fees, or to waste away his time, the great resource of his family, in prison. To pay even a small debt surpasses his ability. To go to jail is the ruin of his hopes, for this is the period of his little harvest. Perhaps rather than submit to such a distressing alternative, he yields up to his importunate creditors the little property which the law protects for the benefit of his family, his cow or his bed, or compromises, by his employer's paying the cost and fees, and part of the debt, while he gives his note for the balance, and is fortunate if he escapes a visit from it in the form of a new execution, with another bill of costs, the next summer.

A bill of costs of a few dollars, or the loss of a month's time, may seem to those who have ample resources as matters of inconsiderable moment, as burdens which may be easily shaken from the shoulders ; but, in the economy of a poor family, struggling to sustain itself, they are things of great consideration, a tax that cannot be borne without distress, and it is believed the number of persons is not small, who, under the complicated evils growing out of a repetition of this aggravating process, sit down, heart-broken, and in despair look to the poor-house for relief.

It seems to me incompatible with an enlightened view of civil liberty, with humanity itself, to authorize the imprisonment of a debtor who fails to pay, not because he fraudulently conceals his property, but because he has no means. It cannot be justified as a punishment, nor as a measure of coercion, for coercion in such a case must be unavailing. Laws were long since interposed to rescue from seizure those articles of property indispensable to the subsistence of a family, and it is difficult to assign any reason why one needing this protection should be liable to be imprisoned for debt. But it is still more difficult to understand why a debtor's tools of his trade are exempted from seizure,



unless upon the supposition that the tools can work without him. It seems to me, therefore, to be a power, which, in the hands of the vindictive or unfeeling creditor, may be, and probably is, often greatly abused; and I submit to your wisdom, whether the laws in this respect ought not to be so modified, as to exempt this unfortunate class of our fellow-citizens, who are made to feel, in other ways, enough of the miseries incident to human life, from liability to imprisonment. The act will be honorable to your humanity, and will be consecrated by the silent tears and grateful hearts of many."

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ERRATUM.—In page 10, line 28, for "after" read "before."



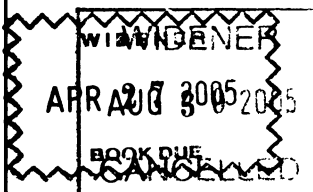




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